



**REVIEW OF SELECTED ACTIVITIES IN GEORGIA SUPPORTED BY:**  
**U.S. DEPARTMENT OF STATE BUREAU OF INTERNATIONAL  
NARCOTICS AND LAW ENFORCEMENT**  
**&**  
**U.S. DEPARTMENT OF JUSTICE OFFICE OF OVERSEAS  
PROSECUTORIAL DEVELOPMENT ASSISTANCE AND TRAINING**  
**SPECIAL THEMATIC REPORT**  
**2012**



**GEORGIA MONITORING PROJECT**



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**DEPARTMENT OF STATE  
OFFICE OF THE COORDINATOR OF U.S. ASSISTANCE TO EUROPE AND EURASIA (EUR/ACE)  
MONITORING U.S. GOVERNMENT ASSISTANCE PROGRAM RESULTS IN GEORGIA  
(GEORGIA MONITORING PROJECT)  
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## **ABBREVIATIONS & ACRONYMS**

ABA ROLI	American Bar Association’s Rule of Law Initiative
ABA CEELI	American Bar Association’s Central European and Eurasian Law Initiative
CLE	Continuing Legal Education
CPC	Criminal Procedure Code
DOJ	Department of Justice
DOS	Department of State
ECHR	European Convention on Human Rights
EUR/ACE	Office of the Coordinator of U.S. Assistance to Europe and Eurasia
GBA	Georgia Bar Association
GE	Georgia
GMP	Georgia Monitoring Project
GOG	Government of Georgia
GYLA	Georgia Young Lawyers Association
HSJ	Supreme Court of Georgia High School of Justice
ICCMS	Integrated Criminal Case Management System
INL	Bureau of International Narcotics and Law Enforcement, Department of State
JILEP	Judicial Independence and Legal Empowerment Project
MoIA	Ministry of Internal Affairs
MOJ	Ministry of Justice
NADA	National Association of District Attorneys
NGO	Non-Governmental Organization
NITA	National Institute of Trial Attorneys
OPDAT	Office of Overseas Prosecutorial Development, Assistance and Training (DOJ)
RLA	Resident Legal Advisor, Department of Justice
USAID	United States Agency for International Development

**DISCLAIMER**

The author's views expressed in the publication do not necessarily reflect the views of the United States Department of State or the United States Government.

## EXECUTIVE SUMMARY

### Background & Rationale

Two months after the August 2008 Russia/Georgia conflict, the World Bank and the European Commission chaired a donor Joint Needs Assessment Conference in Brussels to enlist support for Georgia's post-conflict recovery. At this conference, the United States Government (USG) pledged \$1 billion to the Government of Georgia (GoG). The Georgia Monitoring Project (GMP), a two-year program (May 2010 - May 2012) funded by the United States Department of State and implemented by International Business & Technical Consultants, Inc. (IBTCI), was established roughly 18 months later to monitor the results of the USG foreign assistance under the \$1 billion pledge. One of the main components of the GMP's scope of work (SOW) is the preparation of Special Thematic Reports (STR) to gain a deeper understanding of the effects of USG assistance to Georgia in specific thematic or geographic areas.

The centerpiece of this STR is a review of USG-supported activities intended to strengthen the rule of law and law enforcement in Georgia. The overall goal of these activities is supporting the implementation of Georgia's new Criminal Procedure Code (CPC), and in training key Georgian professionals affected by the new CPC. The U.S. Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training (DOJ/OPDAT) has played a critical role in Georgia in providing and supporting this training within the GoG's Ministry of Justice (MOJ) and in the country's legal community. The central aim of the USG law-enforcement strengthening activities is to increase the capacity of the Georgian Police through training in the new CPC's law enforcement-focused components, and through separate provision of new equipment and information technology resources. The U.S. State Department's Bureau of International Narcotics and Law Enforcement (INL) has been the primary provider of this training and equipment to the GoG's Ministry of Internal Affairs (MoIA).

### Methodology

For this review, the GMP Review Team focused on seven of the 16 activities that were funded out of the USG \$1 billion pledge and conducted by INL and OPDAT in support of implementation of the new CPC, and in the strengthening the capacity, skills and equipment of the Georgian police. Specifically, the Review Team assessed three Rule of Law (ROL) and four law-enforcement-strengthening projects, with the objective of reviewing the immediate results of the seven activities, assessing their implementation, effectiveness and progress, and making recommendations that capture best practices and/or identify shortcomings that could be addressed in future program planning. These seven activities were chosen based on their relative priority to other activities, according to DOJ and INL staff, as well as the potential impact each could have over time based on their alignment with U.S. goals and objectives in Georgia. The Review Team's technical approach employed a mixed-method design that emphasized qualitative data collection techniques – a document review, key informant interviews, and project observation and site visits – to capture changes in perceptions and/or practices. The review was conducted during January and February 2012 by a Review Team consisting of a rule-of-law expert, an M&E specialist with police programming experience, and an in-country legal specialist.

### Summary of Findings & Conclusions

#### *Rule of Law Activities*

Based on Review Team interviews and observations of trainings and related events, the first ROL activity, *Jury Trial/Trial Advocacy Training Seminars for Prosecutors and Judges*, should be considered a

major achievement for DOJ in terms of the quality and extent of the training provided to Georgian prosecutors. The Georgian prosecutors interviewed as part of this review were pleased with the training and felt confident in their skills. In particular, they appreciated the mock jury trials and accompanying training by DOJ. The prosecutors' training was also considered strong in the eyes of Georgian defense attorneys – so much so that they thought it was giving prosecutors an advantage in understanding the new CPC, as well as in the form of increased skills in advocacy, investigation, and witness interrogation.<sup>1</sup> The training seminars for judges appear to be of a similarly high quality. The DOJ-organized peer-to-peer training by U.S. Federal judges, which included discussions between both sets of judges on specific examples and common problems, appeared to be a successful formula and was praised by all interviewed judges. Additionally, the DOJ provided unique qualifications and experience with both jury and complex criminal trials that were essential in organizing and conducting these comprehensive trainings.

Under the second ROL activity, *Jury Trial/Trial Advocacy Training Seminars for the Defense Bar*, the American Bar Association's Rule of Law Initiative (ABA ROLI) trained a significant number of defense lawyers in the CPC, trial advocacy skills and forensic investigations. As there are a large number of defense lawyers practicing criminal law throughout Georgia, this process is ongoing. However, this extensive training can be considered a success, since without this intervention, most defense lawyers would not have been prepared to practice under the new CPC. The interviewed defense lawyers were all applying their training in some way, either as better advocates in court, or by using the new CPC to investigate allegations against their clients.

The third ROL activity, the *DOJ Court Monitoring Project*, has proven to be a cost effective method of obtaining useful and important data on the issues of compliance with the new CPC and other behavior by judges, prosecutors and defense lawyers. The Georgian Supreme Court and the MOJ have taken corrective actions based on the court monitoring reports, which is the ultimate goal of court monitoring. The court monitoring has also provided information on problems that can be resolved by additional training of prosecutors and judges.

### ***Law Enforcement Strengthening Activities***

The quality of the CPC training and related courses under the law-enforcement-support project, *Training for Police and Investigators in both Substantive and Ethical Obligations under the New CPC* was rated as high, including those taught by the in-country specialists, such as the INL senior police advisor, and those taught by U.S.-based specialists brought over to Georgia to teach short-term courses. Additionally, the travel/instructional tours to visit law enforcement facilities and trainers in the United States also were praised for bringing Georgian police and investigators into contact with law enforcement experts and state-of-the-art facilities. The CPC Course itself also received high marks for providing participants with relevant training, such as the focus on improving their ability to testify – which investigators have had to do more frequently under the new Code – and on 'real-world' resources, such as the DOJ-funded mock court room. Training in the other relevant CPC provisions thus far has not been put to the test significantly in the courtroom or in the field, owing in part to the fact that the new CPC provisions only went into effect in October 2010, and that other requirements will not take effect until October of this year.

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<sup>1</sup> Caucasus Research Resource Centers, *Attitudes toward the Judicial System in Georgia*, January 24, 2012, p. 19.

The second law enforcement initiative, the *TETRA Emergency Communications Project*, is an integrated communications system project with a planned central dispatch facility that will allow for officers, as well as fire and rescue units, to provide quicker, coordinated responses to national emergencies. Officers who have been given access to the system through car-mounted and hand-held radios cite the ease of communication with central communication centers and quicker notification of incidents. The project has been piloted through deployment of the system in a small number of cars in a small geographic area; at present, it is possible to communicate through the system's 'one click' radio access in a small area, although the system currently covers Tbilisi, Batumi, Gori, , Rustavi and Mstkheta. MoIA estimates full network coverage (about 80 percent of Georgia) in about six months. Hence, wider testing and surveying will be possible only when its use is expanded.

The third law enforcement activity, *the Police Patrol Vehicles Project*, centered on INL's donation in December 2010 of 74 Toyota Land Cruisers and 25 Toyota Hi-Lux 4x4 pickup trucks to MoIA. The 99 off-road vehicles were intended not merely to provide better patrolling of remote, mountainous areas that had suffered as a result of the August 2008 conflict with Russia, but to project a "robust police presence in remote mountainous areas."<sup>2</sup> These vehicles are enabling quicker response times and greater police visibility in the Shida Kartli "conflict area," the region where the majority of the Land Cruisers were assigned. Interviews with local police officers in the Gori area who utilize these vehicles – and firsthand observations of these vehicles – revealed that they are highly valued, are being used regularly, and are still in good shape, although based on recent experience, there is an ongoing concern that there is inconsistent maintenance and preventive maintenance in MoIA's handling of equipment. This could shorten the life of these vehicles.

The final law enforcement activity, the *National Crime Database Project*, was initially launched as a vehicle registration system, and then expanded in 2009 to include administrative violations and criminal histories. The current phase of the project will significantly expand access to the database through the distribution of both police vehicle-based "on-board" computers (approximately 170 of these) and fixed computer terminals across a number of Georgian regions (approximately 200). A key impact of the database has been MoIA's utilization of the technology and training provided by INL to develop it to help the Ministry create tools of its own. Specifically, it used this assistance to develop "Police Pads," which are hand-held tablet computers given to investigators, neighborhood police and patrol police to allow them to access the National Crime Database.

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<sup>2</sup> CY 2011 INL End Use Monitoring Report.

## I. INTRODUCTION

### Background & Rationale

The Georgia Monitoring Project (GMP) is a two-year program (May 2010 - May 2012) funded by the United States Department of State, implemented by International Business & Technical Consultants, Inc. (IBTCI) and managed by the Office of the Coordinator of U.S. Assistance to Europe and Eurasia (EUR/ACE). Its primary purpose is to monitor the results of the United States Government (USG) foreign assistance under the \$1 billion pledge to the Government of Georgia (GOG) following the August 2008 Georgian-Russian conflict to ensure the funds are directed toward the foreign policy and foreign assistance objectives for which they were intended. Information and reports produced by the GMP are intended for Congress, the Office of Management and Budget, and all USG implementers to enable them to better form judgments on the effectiveness of programs to meet USG assistance objectives.

One of the main components of the GMP scope of work (SOW) is the preparation of Special Thematic Reports (STR) to gain a deeper understanding of the effects of USG assistance to Georgia in specific thematic or geographic areas. The centerpiece of this STR is a review of USG-supported activities in two key areas. The first was the implementation of Georgia's new Criminal Procedure Code (CPC), and in training key Georgian professionals affected by the transformation of the CPC. The U.S. Department of Justice's Office of Overseas Prosecutorial Development Assistance and Training (DOJ/OPDAT) has played a critical role in Georgia in providing and supporting this training within the GoG's Ministry of Justice (MOJ) and in the country's legal community. The second area centered on strengthening the capacity of the Georgian Police through training in the new CPC's law enforcement-focused components, and through provision of new equipment and information technology resources. The U.S. State Department's Bureau of International Narcotics and Law Enforcement (INL) has been the primary provider of this training and equipment to the GoG's Ministry of Internal Affairs (MoIA).

In summary, this review focused on the following Rule of Law activities (implemented by DOJ) and Law Enforcement Strengthening interventions (implemented by INL) in Georgia:<sup>3</sup>

Focus Area	Activity Titles	Supporting USG Dept./Bureau
Rule of Law	Activity #1: CPC Implementation - Jury Trial/Trial Advocacy Training Seminars - for Prosecutors and Judges	DOJ
	Activity #2: CPC Implementation - Jury Trial/Trial Advocacy Training Seminars - for the Defense Bar	DOJ
	Activity #3: DOJ Court Monitoring Project	DOJ
Law Enforcement Strengthening	Activity #4: Training for Police and Investigators in both Substantive and Ethical Obligations under the New CPC	INL
	Activity #5: TETRA Emergency Communications Project	INL
	Activity #6: Police Patrol Vehicles Project	INL

<sup>3</sup> These seven activities were selected from an initial list of 16 Rule of Law and Law Enforcement Strengthening activities conducted by DOJ and INL. The seven activities were chosen in consultation with DOJ, INL and the Department of State, and based on a joint assessment of their current and estimated future importance in supporting implementation of the CPC, on the resources allocated to the activity, and on the feasibility of obtaining a sufficiently robust picture of the effectiveness of the activity during the Review Team's field work. See the Methodology sub-section below for more details on this selection process.

Both INL and DOJ view this assistance as a response to the effects of 2008 conflict, which threatened to undermine development of the country's fragile judicial and legal institutions and processes, and which highlighted security vulnerabilities in Georgia's law enforcement capabilities, including its crisis response capacity. However, INL and DOJ also viewed this assistance as necessary to maintaining or expanding USG support to Georgian reform efforts that preceded the 2008 conflict, and so assistance was aimed at addressing long-standing political and institutional weaknesses in its judicial, legal and law enforcement bodies. Specifically, in the period leading up to the 2003 Rose Revolution, key branches of the Georgian police were seen as notoriously corrupt and ineffective, while the judiciary was seen as subservient to those in political power. Criminal justice reform therefore became one of the main priorities of the then-new Saakashvili administration, which initiated major changes to the country's CPC, the police and the judiciary. The U.S. supported these earlier reforms, which set the stage for all but one<sup>4</sup> of the seven activities being reviewed within this report.<sup>5</sup>

## Methodology

**Report Structure:** This report first analyzes the Review Team's findings, which is then followed by conclusions and recommendations sections. Within each of these sections, the Review Team focused on the two sets of reviewed projects separately – first on the Rule of Law activities, and then on the law enforcement strengthening activities.

**Objective & Questions:** This STR's objective, key evaluation questions and overall approach was derived from the initial SOW developed in consultation with the State Department's EUR/ACE Office. Its objective was to review the immediate results of the seven activities, assess their implementation, effectiveness and progress, and make recommendations that capture best practices and/or identify shortcomings that could be addressed in future program planning. This review also sought to address the following questions:

### *Rule of Law Activities:*

- To what extent did the training provided with USG funding impart the knowledge necessary for judges and prosecutors to enable them to understand adversarial principles and implement the new CPC effectively?
- What are the early indications, if any, that the training of prosecutors and judges is resulting in improved rule of law in Georgia?
- To what extent did the training impart the knowledge to defense attorneys to enable them to apply the new CPC effectively, uphold defendants' rights to due process and increase access to justice?

### *Law-Enforcement-Strengthening Activities:*

- To what extent did the training provided with USG funding improve officers' understanding and application of the relevant provisions of the new CPC, and their abilities to carry out their relevant duties?

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<sup>4</sup> The Police Patrol Vehicles Project, which resulted in the donation of 99 off-road SUVs and trucks to the Georgian Ministry of Internal Affairs (MoIA), was funded specifically to deter criminal activity in areas that suffered during the 2008 conflict.

<sup>5</sup> See the introductions to this report's respective "Rule of Law" and "Law Enforcement Strengthening" Findings sections for more details on these reforms and their ties to these seven activities.

- How has the relevant USG-funded equipment improved law enforcement communications in Georgia? What difference is it making in officers' abilities to carry out their law enforcement duties?
- How has the USG-funded database equipment improved law enforcement criminal data tracking in Georgia? What difference is it making in officers' abilities to carry out their law enforcement duties?
- How has the provision of USG-funded vehicles improved officers' mobility and their abilities to carry out their duties?

**Technical Approach:** The Review Team's technical approach employed a mixed method design that used qualitative data collection techniques to capture perceptions and/or practices. This review sought to capture the efficacy of a range of judicial and law enforcement strengthening projects in Georgia at various stages of implementation because the seven selected activities were in various stages of completion, and in all but one case,<sup>6</sup> are ongoing. The review therefore employed an approach that captured individual project progress as of February 2012, utilizing data gathered from a review of documents, interviews, and visits to project sites and trainings to provide recommendations for strengthening such projects further in the future. This review was conducted during January and February 2012 by a Review Team consisting of a rule-of-law expert, an M&E specialist with police programming experience, and an in-country legal specialist.

Given the agreed timeframe and resources provided for this review, certain steps were taken to enable the Review Team to conduct a practical yet representative review of INL and OPDAT assistance to the Government of Georgia. First, the Review Team focused on seven of the 16 activities conducted by INL and OPDAT in support of implementation of the new CPC, and in the strengthening the capacity, skills and equipment of the Georgian police. These seven were chosen based on their relative priority to other activities, according to DOJ and INL staff, as well as the potential impact each could have over time based on their alignment with U.S. goals and objectives in Georgia.

Second, based on the agreed number of individuals and groups that could be interviewed or observed during its field time in Georgia, the Review Team utilized a sampling strategy that selected and interviewed those thought most likely to yield the richest and most meaningful information and understanding of the activities under review. In particular, representative samples of stakeholders were chosen to reflect views of broader groups of stakeholders (e.g., senior-level investigators, junior-level investigators, prosecutors, and defense lawyers).

**Performance Measures:** In addition to the criteria described in the section above, INL established performance measures for each of its "commodity-based" activities (TETRA, Patrol Vehicles, and Crime Database). These are internal metrics developed and agreed to by INL and the host country, and are considered the activities' binding measurement standards of success or failure. The metrics ensure overall compliance with the requirements of the activity, but allow the host government a degree of flexibility in how it implements the activity and reports on its progress, according to INL. In turn, INL confirms activity implementation through a set of monitoring procedures. These include a combination of scheduled and unscheduled on-site inspections, and several secondary methods (e.g., discussions, authenticated copies of MoIA logistical and assignment records, and office visits with Georgian government officials). With this process in mind, the Review Team analyzed the INL performance measures for the three aforementioned activities and corroborated MoIA progress against these measures wherever possible. The Review Team also offered suggestions on developing new or modified

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<sup>6</sup> The Police Patrol Vehicles Project consisted of a one-time transfer of vehicles in December 2010.

performance measures that could give INL a more comprehensive yet nuanced picture of the effects of its activities.

***Data Collection Techniques:***

1. Document Review – The Review Team analyzed and synthesized information from relevant INL and DOJ/OPDAT project documents, including End User Monitoring Reports, relevant Letter of Agreement amendments, quarterly reports, course curricula and Power Points, After Action Reports, internal/external studies of law enforcement, legal reform, and political and security context in Georgia.
2. Key Informant Interviews – For DOJ-supported activities, the Team conducted individual and group semi-structured interviews with representatives from MOJ, judges, prosecutors, defense lawyers, key informants from ABA ROLI/Georgia, the Georgian Bar Association (GBA), USAID’s Judicial Independence and Legal Empowerment Project (JILEP), the European Union, the Georgia Young Lawyers Association (GYLA), and the Legal Aid Service. For INL activities, the Review Team interviewed MoIA senior officials, representatives from the Police Academy and the Forensics Division, senior- and junior-level investigators from Criminal Police, Patrol Police, and Special Operations, NGO representatives (e.g., Transparency International). Sets of basic interview questions were drawn up for both DOJ and INL key informant interviews, with INL question sets further sub-divided between INL itself, MoIA senior management officials, and MoIA investigators and officers. While these questions formed the basic template for conducting individual and group interviews, it should be noted that Review Team members diverged from the documented questions when additional and potentially rich areas of inquiry presented themselves.
3. Project Observation and Site Visits – The Review Team observed several DOJ- and INL-supported courses: Interview Skills Development (for Georgian investigators), ABA Rule of Law Initiative trial advocacy courses, and a forensics training course. It also toured the new building and offices of Georgia’s prosecutors, the Georgian Police Academy, and the Mock Courtrooms within both the Academy and the MOJ. Additionally, the Review Team inspected patrol cars utilizing the new TETRA Emergency System and Criminal Database, and in Gori, examined one of the new patrol vehicles (a Toyota Hi-Lux Pickup Truck) donated by INL.

***Challenges & Limitations:***

1. One challenge faced by the Review Team was the relatively recent entry into force of new CPC provisions (October 2010), as well as provisions of the Code that have yet to take effect (e.g., the requirement that witness or defendant statements be obtained voluntarily by investigators or officers will not become law until October 2012). This time frame gave the Review Team a limited chronological window from which it could draw stakeholder perceptions. Similarly, the recent handover to MoIA of patrol vehicles, and of equipment for long-term technological infrastructure projects, has meant limited time for generation of sustainable (or even short-term) results that the Review Team could track, other than output-based results.
2. The data obtained during this review was qualitative in nature. Qualitative methods allow for a comprehensive understanding of peoples’ experiences implementing, benefitting from, or observing the effects of the targeted activities. Qualitative data collection is also normally time-intensive, limiting the number of interviews Review Team members can conduct in a given period of time. For GMP, the

Review Team’s sampling strategy was intended to counter this small sample size by tapping into the most informative sources of information available to Review Team members.

3. On a few occasions, the Review Team’s requests to MoIA for group interviews with investigators yielded smaller-than-optimal groups (e.g., three instead of five).

4. Document Access: Some basic information on INL projects was made available late in the review process, although INL staff have explained that this was due to INL/Georgia awaiting direction from INL/Washington on the extent to which the material in question could be publicly shared. It compensated for this in part by asking basic questions about these activities as part of their interviews, and by drawing on separate INL information provided to the Review Team and on material from reputable third-party sources, such as Transparency International and the Georgia Young Lawyers Association.

## II. FINDINGS: RULE OF LAW ACTIVITIES

The three Rule of Law activities reviewed for this report - CPC Implementation Jury Trial/Trial Advocacy Training Seminars for Prosecutors and Judges, CPC Implementation Jury Trial/Trial Advocacy Training Seminars for the Defense Bar, and the U.S. Department of Justice Court Monitoring Project – have sought to improve understanding and application of the new CPC. This review sought to assess the degree to which these activities are meeting these objectives.

The new CPC introduced a number of major changes to the way Georgian prosecutors, judges and defense attorneys were accustomed to conducting criminal procedures.<sup>7</sup> The first established a central role for the adversarial process in which the defendant is now able to conduct an investigation to obtain evidence for his/her own defense. Rules for evidence collection are also clearer and evidence gathered in violation of the CPC is subject to exclusion at trial. The judge no longer has the right to question the witness at trial or conduct any investigative action. In addition, the new Code introduced several standards of evidence for investigations and trials, including a standard that evidence must be beyond a reasonable doubt to find a person guilty, an increased burden on prosecutors to prove that detention is necessary for defendants during the pre-trial or trial stages, and the use of new preventive alternatives to imprisonment, such as electronic monitoring. Jury trials were also introduced in the new Code<sup>8</sup> for all cases that carry the possibility of imprisonment as a punishment.<sup>9</sup>

**QUESTION #1: To what extent did the training provided with USG funding impart the knowledge necessary for judges and prosecutors to enable them to understand adversarial principles and implement the new CPC effectively?**

**QUESTION #2: What are the early indications, if any, that the training of prosecutors and judges is resulting in improved rule of law in Georgia?**

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<sup>7</sup> Criminal Procedure Code of Georgia, 2009, Art, 72.

<sup>8</sup> *Id.* at Art. 13. See also Art. 82(3)

<sup>9</sup> Since the new CPC came into force, jury trials have currently been limited to two cities and to serious offenses in an effort to gradually introduce this process into the Georgian judicial and legal system. The first two jury trials in Georgia took place in November 2011 and January 2012 in Tbilisi City Courts, with the defendants being convicted of murder in both cases. After October 2012, jury trials will be expanded over the next two years to cover other serious crimes, while cases will begin to be tried in Kutaisi Trial Courts.

## A. Training for Prosecutors

**New Criminal Procedure Code:** The prosecutors, through the Training Coordinator at the Ministry of Justice, requested assistance in 2009 from the U.S. Department of Justice, OPDAT (“DOJ”), to plan and conduct trainings before the new CPC went into effect in October 2010. Through the “Jury Trial and Trial Advocacy Training Seminars for Prosecutors and Judges,” DOJ’s OPDAT, through its RLAs and experienced Assistant United States Attorneys (AUSAs) provided training on the CPC’s changes to the criminal justice system for all prosecutors in Georgia in January and February 2010. The training course included a large number of topics: trial participants (changes in the status of the victim); evidence and the burden of proof including exclusion of evidence; investigation activities including search and seizure and chain of custody of evidence; prosecutorial discretion; preventive measures (bail); and trials including jury trials.

According to the interview with the Training Coordinator of the MOJ, there were 400 prosecutors at the beginning of the CPC training process. After the first training on the CPC, the MOJ gave an examination. Some 80 percent passed and those that did not were given a second chance. A total of 10 out of 400 prosecutors did not pass.<sup>10</sup>

Most of the interviewed prosecutors did not have specific recollection of the details of this CPC training program – not because the training was not useful, but due to the time that had elapsed since the training,<sup>11</sup> the additional trainings they had taken since the initial CPC course, and their overall work load. What they did recall was that it was very comprehensive, and although the training used lectures, it was made more interesting by case studies and discussion groups. Interviewed prosecutors recalled the participatory nature of the training, and that they were able to ask questions. The comprehensive examination at the end of the theoretical CPC training, the prosecutors believed, forced them to review and learn the materials. The training program provided by DOJ was seen as comprehensive, practical and useful.

A specific indication of the effectiveness of the DOJ training was that prosecutors were now regularly filing motions to exclude evidence against the defense, a new practice taught solely through the DOJ CPC course. This training alone specifically provided explanations regarding the new exclusionary rules for evidence and the effects of chain of custody of evidence.<sup>12</sup> It should be noted that all interviewed prosecutors were successful in attempts for motions to exclude evidence against the defense – this, however, was more a product of the ongoing reluctance of judges to challenge prosecutors (see Judges’ training section below). Most of the motions against the defense were for failing to provide evidence during the information exchange and trying to have the same evidence admitted at trial.

**Trial Advocacy Skills:** The new CPC introduces the adversarial system to Georgia, with both prosecutors and the defense now having an equal opportunity to investigate and present evidence during a case. Jury trials were also initiated in Tbilisi City Courts for aggravated murder cases, though the first two jury

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<sup>10</sup> Statistics on pass rates for the prosecutors were provided by the Training Coordinator, Ministry of Justice, Georgia.

<sup>11</sup> More specifically, the RLAs’ lecture-type trainings on the new CPC were conducted in January 2010, while GMP interviews were conducted in January 2012.

<sup>12</sup> The new CPC allows for evidence to be excluded from trial if it has been obtained in a way that violates relevant provisions of the Code, including failure to provide evidence during the requisite exchange of information between the prosecution and defense.

trials did not occur until late 2011 and early 2012. Resident Legal Advisors (RLAs) had conducted mock jury trials as training for prosecutors throughout Georgia for years in anticipation of the start of jury trials. Despite these efforts, not every prosecutor was able to participate in these mock trials. As a result, the MOJ requested that the RLAs conduct advocacy skills training for all prosecutors in preparation for the enactment of the CPC in October 2010, and that the RLAs develop a three-day mini-seminar for all Georgian prosecutors.<sup>13</sup>

The RLAs, with assistance from RLAs from neighboring countries, a visiting Assistant U.S. Attorney, ABA ROLI, and local specialists, completed a “surge” of trainings, holding them six days a week every week in June and July, 2010. The training, using a case study of a murder, provided case dissection practice and lectures, and practice on skills that would be required under the CPC. This included opening statements and closing arguments and direct and cross examination of witnesses.<sup>14</sup> A mock trial was held as part of the training program in which prosecutors practiced *voir dire*<sup>15</sup> through the creation of questions to ask potential jurors, identification of jurors who would favor either prosecution or defendants, and the exercising of “for cause” and peremptory<sup>16</sup> strikes of potential jurors. The prosecutors also presented opening statements, examined witnesses and delivered closing arguments.<sup>17</sup> Out of these trainings, and a mock jury trial competition, the MOJ selected a group of prosecutors identified as possessing the best skills to handle the first jury trials in Georgia. In turn, the RLA chose ten talented prosecutors from this hand-picked group and traveled with them to Seattle, Washington in the fall of 2010 to observe jury trials and to obtain first-hand knowledge on trial skills, trial advocacy techniques, court procedures and rules employed during jury selection and subsequent trial.

The Review Team found that the mock trials were the most useful aspect of the training for prosecutors, as all felt that the mock trials and the accompanying training were very close to reality, especially when used in conjunction with the MOJ’s mock courtroom, and were an important learning experience, especially when they lost. Among those selected to conduct the first Georgian jury trials, the study tour to Seattle was identified as being particularly useful for providing exposure to real trials that truly helped them understand how jury trials work. Almost all of the interviewed prosecutors mentioned that they learned to effectively examine witnesses during the DOJ training, and that they were now using this skill in practice; other new skills acquired and applied included making opening statements and closing arguments, and formulating questions properly for witnesses.

**Investigation Techniques:** The new CPC gives the prosecutor more responsibility over investigations, including requests for search and seizure of evidence and the possibility of the exclusion of evidence collected in violation of the law. As part of the preparation for the enactment of the CPC, prosecutors were given DOJ-supported training on investigation techniques. Fewer prosecutors had as strong a recall

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<sup>13</sup> INL Training After-Action Report for Course: Trial Advocacy Skills Training for all GE Prosecutors, June 28-July 26, 2010, p. 3.

<sup>14</sup> Direct examination is used to present testimony by the witness called by each side to the trial. Questions should be non-leading (not suggesting an answer). Cross examination is for adverse witnesses or witnesses from the opposing side and may be leading, suggesting an answer.

<sup>15</sup> The preliminary examination of prospective jurors to determine their qualifications and suitability to serve on a jury.

<sup>16</sup> A peremptory strike permits a party to remove a prospective juror without giving a reason for the removal.

<sup>17</sup> INL Training After-Action Report for Course: Trial Advocacy Skills Training for all GE Prosecutors, June 28-July 26, 2010, p. 4.

of this training as they did of the mock trials,<sup>18</sup> although the prosecutors that participated in the investigation trainings agreed that these courses increased their skills in handling their new responsibilities involving investigations, which are a major part of their case load. None of the prosecutors requested further training on investigations indicating that they felt prepared to handle their extremely large case load of investigations. Defense lawyers also had no complaints as to how prosecutors were handling investigations indicating that the training had the desired effect on the adversarial system.

***Prosecutors' Use of the Integrated Criminal Case Management System (ICCMS):*** A notable impact of the DOJ assistance has been the ICCMS and its widespread utilization by prosecutors as a practical tool for implementing the CPC. The ICCMS is an electronic information management and delivery system provided through U.S. assistance to allow prosecutors to receive information from case investigators, maintain, catalogue, and distribute electronic copies of pleadings, and file electronic documents with the courts. The equipment for this system, some of which was funded and provided by INL, was transferred from DOJ to MOJ in January 2011. MOJ has since provided training to Georgian prosecutors in its use. All prosecutors interviewed by the Review Team are using the ICCMS and found that it saves time for filing court papers. Secondly, the prosecutors mentioned the ICCMS as helpful in relation to investigations, which are also part of the system. The files from the investigators are sent electronically for review instead of the prosecutor waiting for the investigator to deliver the file. Since prosecutors now have more responsibilities for investigations, the ICCMS should continue to play a significant role in assisting prosecutors with overseeing investigations.

***Training 'Fatigue':*** Since the original DOJ trainings on the CPC and trial advocacy, several prosecutors had taken trainings on witness interrogation and financial crimes provided by DOJ, but appeared to be suffering from "training fatigue," such as having difficulty differentiating between trainings and recalling some details of specific courses. Interviewed prosecutors, for example, stated that they were sometimes in MOJ training two or three times a month, and then had to return in the evenings to complete their work. The intensive pace of this training schedule was established and maintained by MOJ, specifically the MOJ training center. It was also due to the time that had elapsed since the trainings, and the additional trainings they had taken since the initial CPC course, rather than to negative views of these courses. Nevertheless, all prosecutors were able to make at least general statements as to impact and use of the DOJ training in their daily work.

***Training & Materials:*** The most requested training was for witness interviewing techniques in anticipation of the new section of the CPC under which prosecutors will not be able to compel witnesses to testify, or admit any witness statements into evidence at trial unless voluntarily obtained.<sup>19</sup> Given the level of satisfaction with the DOJ training, the interviewed prosecutors had very few additional training requests. Separately, prosecutors were provided handbooks of the new CPC and an outline on trial advocacy written by the DOJ RLA during their trainings. The interviewed prosecutors were relatively evenly divided between those that had almost no recollection of the training materials they were given and those who claimed they kept all of the materials in binders and referred to them in their work. However, this appeared to have more to do with personal work styles, since some prosecutors said they

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<sup>18</sup> RLAs asserted that the mock trials were more memorable due to their repetitive nature (they were taught nearly every month), while investigation techniques and similar trainings were conducted over two years ago and did not cover all 400 prosecutors.

<sup>19</sup> However, where prosecutors feel such witness testimony is essential, they may still file a corresponding motion during the pre-trial stage to the court for the witness to appear and testify.

preferred to keep reference materials close at hand, while others felt confident with their knowledge after the training and didn't feel the need to consult the materials.

## **B. Training Seminars for Judges**

Training by DOJ in support of the High School of Justice of the Supreme Court of Georgia (HSJ) began in 2011, although U.S. Federal judges had been traveling to Georgia repeatedly since 2009 to assist in this process.<sup>20</sup> RLAs and the HSJ began training on the draft of the new CPC back in 2009 because it required many changes for judges. Under the old Code, for example, the judge acted as the primary questioner at trial and asked interrogation-type questions. Under the new CPC, the judge is more of a referee and is designed to function as a neutral and detached arbiter/referee, with the prosecutor and defense lawyers presenting evidence, including examination of witnesses. The first RLA/HSJ trainings were held in 2009 using the draft Code, and utilizing U.S. Federal judges as subject matter experts. A second training regime was organized in 2010 by the HSJ using the new Code before it went into effect. All 150 criminal court judges were trained during this RLA program which brought U.S. Federal Judges to Georgia to facilitate and conduct a series of judicial trainings. In 2011, DOJ conducted trainings on the more practical aspects of the Code, including areas concerning adversarial practice that were highly novel to Georgian judges such as *voir dire* and jury trial dynamics. The process included "train the trainer" programs that selected judges who would be suitable as trainers.<sup>21</sup>

***Jury Trial and Organized Crime Training:*** The U.S. Department of Justice prepared 16 judges from Tbilisi and Batumi City Courts for jury trials. In the first phase of jury trials in Georgia, the trials were going to be held for aggravated murder cases first in Tbilisi City Courts and then expanded to Batumi City courts.

In July 2010 in Kobuleti, Georgia, a two-and-a-half day workshop was held using peer-to-peer training through U.S. Federal Judges. The judges reviewed case studies prepared by the U.S. judges. The Georgian judges also used materials from the Evidence and Jury Instructions Work Groups of the Supreme Court and discussed *voir dire* (jury selection) issues, including a mock exercise.<sup>22</sup> On request of the HSJ, the RLAs also organized two workshops on "Presiding over Complex Organized Crime and Terrorism Cases" in June and July 2011 for 60 criminal court judges, in both Tbilisi and Kobuleti. The workshops were in response to several terrorism incidents in both Tbilisi and Western Georgia and the subsequent arrests.<sup>23</sup> U.S. Federal Judge David Carter and Assistant U.S. Attorney Peter Hernandez were the expert presenters.<sup>24</sup> The course covered handling multiple defendants, legal motions that may arise, such as motions to separate one or more defendants from a group that were to be tried together as well as motions arising on the eve of trial. The training also included discussions about confidential informants as witnesses, witness intimidation and security of the trial participants, and the wise use of judicial discretion by the presiding judge.<sup>25</sup>

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<sup>20</sup> The HSJ as established in 2006 to provide training for judicial candidates, sitting judges and court employees.

<sup>21</sup> Interview with Deputy Director of the High School of Justice, January 2012.

<sup>22</sup> Agenda, Jury Trial Seminar for Judges, Kobuleti, Georgia, July 14-17, 2010, U.S. Department of Justice.

<sup>23</sup> INL Training After Action Report, Presiding over Complex Organized Crime and Terrorism Cases, July 23-24, 2011, p. 3.

<sup>24</sup> INL Training After Action Report, Presiding over Complex Organized Crime and Terrorism Cases, July 23-24, 2011, p. 3.

<sup>25</sup> *Id.*

The HSJ deputy director had spoken to judges about the prior trainings at that time, who said that they “went well.”<sup>26</sup> In particular, the degree of specialization of the DOJ training was appreciated, as the HSJ could not provide such training at this level. However, while the deputy director felt the trainings would lead to positive results in the way judges performed their work, he found it difficult at this point to assess in a standardized way how the trainings were making a difference. Nevertheless, based on the overall positive assessment of the trainings, the HSJ is planning two more trainings in 2012 with DOJ to address the high percentage of plea agreements in Georgia, including judges’ new authority to decide whether a plea agreement is fundamentally fair. The deputy director stated that one training on a topic might not be sufficient, as judges not only tended to “pick up what was interesting and then come back and ask for more.”

The Review Team met with two judges from the Tbilisi City Court,<sup>27</sup> who had attended the U.S. Department of Justice Jury Trial Training in Kobuleti in July 2010, as well as other DOJ trainings, such as the Organized Crime training in June 2010, and DOJ study tours, such as those to Orange County, California and Norfolk, Virginia. They voiced appreciation for the DOJ trainings for providing a forum for exchanging information, case studies and talking to Federal judges about concrete examples of court experiences.

**ICCMS Use by Judges:** According to the deputy director of the HSJ, all judges had been trained on the ICCMS, but needed a second round of training. Though the judges have computers, the system was a novelty and judges found it complicated when the system was being implemented. Prosecutors were filing all papers in the court electronically using the new system, so judges were compelled to adapt to the ICCMS. The training for judges at this point does not appear to have been as effective as the separate CPC training was for the prosecutors and investigators, primarily because judges were not as adept with computers.

### **C. Overall Effects of Prosecutors’ and Judges’ Trainings**

#### ***Effective Understanding of New CPC and Potential Signs of Future Improvements to the Rule of Law:***

Every prosecutor in Georgia was trained by DOJ on the new CPC and received intensive quality DOJ training on advocacy skills, including jury trial training, often more than once. The interviewed prosecutors were very pleased with their training, and felt it improved their understanding of the new CPC, including the adversarial principles it introduced, and provided them the skills needed to implement it. The mock trials and the associated instruction were key components in helping them internalize and apply the relevant areas of the new CPC in their work.

Other legal professionals and groups have voiced a belief that the training for prosecutors has given prosecutors an advantage in understanding and applying the new CPC. In a recent survey commissioned by the USAID Judicial Independence and Legal Empowerment Project (JILEP), for example, it states that, “The high quality of the training prosecutors receive, and the stringent criteria by which they are selected, is seen as putting defense lawyers, and by extension defendants, at a disadvantage.”<sup>28</sup> Additionally, the Georgia Bar Association (GBA), the European Union and GYLA all pointed out that there are fewer prosecutors to train, and that the training was mandatory for prosecutors but not for defense

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<sup>26</sup> Interview with Deputy Director of the High School of Justice, January 2012.

<sup>27</sup> The Deputy Director of the HSJ arranged the interviews with these two judges but refused to arrange any others, stating that the judges were too busy training.

<sup>28</sup> Caucasus Research Resource Centers, *Attitudes toward the Judicial System in Georgia*, January 24, 2012, p. 19.

lawyers. Finally, both the legal advisor at the European Union and defense lawyers also stated that although the prosecutors had very effective training, they also believed the prosecutors' alleged influence over judges was another factor that allowed them to be so successful.

In contrast, although all 150 criminal court judges have been trained in the new CPC and processes for jury trials, the effects of the DOJ training on judges in implementation of the relevant CPC provisions has been limited thus far. However, this is not primarily due to any flaws in the DOJ training itself, but rather to the ongoing lack of independence of the Georgian judiciary from the GoG, according to interviews with other donors, stakeholders and defense lawyers. Georgian judges suffered greatly under the 70 years of Soviet rule where judges were marginalized and weakened in the criminal justice system. Judges have been working with the new adversarial system for a year and a half, and it will take time for them to fully embrace and adapt to their new role as an independent arbiter. Steps taken against proactive judges, such as being disciplined for "bad decisions" by being assigned temporarily to distant regions that have been extended indefinitely,<sup>29</sup> have had what interviewees described as a "chilling effect" on judicial independence. Current court management does not empower individual judges to take leadership roles or to broaden their use of judicial discretion. Additionally, court monitoring has revealed issues with the judges' new role as referees, including that they are not exercising the discretion allowed in reviewing plea agreements. Overall, Georgian judges appear to be the weakest link in the new adversarial system, which will enhance the need for DOJ training – especially in providing mentorship and skills discussions between U.S. Federal Judges and Georgian judges. Judges in Georgia will continue to be hamstrung until there is a clear shift in political will to support greater judicial independence.

**QUESTION #3: To what extent did the training impart the knowledge to defense attorneys to enable them to apply the new CPC effectively, uphold defendants' rights to due process and increase access to justice?**

The new CPC is intended to be more adversarial, and will eventually establish the practice of jury trials for all crimes. Under the new CPC, defendants have equal opportunities to investigate the allegations against them and to produce evidence at trial. Among other changes, the new Code allows experts to testify based on qualifications, not just on the basis of being employed by the state. In theory, this allows the defense to get court orders for evidence held by third parties. ABA ROLI designed the training for defense lawyers to prepare them for these changes.

**A. Training of Defense Lawyers**

The American Bar Association's Rule of Law Initiative (ABA ROLI) was selected by INL to provide training to defense lawyers who are members of the Georgia Bar Association.<sup>30</sup> Since 2009, ABA ROLI has trained 2,000 defense lawyers and Legal Aid lawyers on the new CPC. A total of 1,386 lawyers participated in the Initiative's basic training on trial skills,<sup>31</sup> which includes 20 lawyers who participated in 'train the trainers' instruction. A test was given at the end of the trainings and 97 percent passed.<sup>32</sup> The two

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<sup>29</sup> Recent change to Supreme Court rules now requires a judge's permission for a temporary assignment of more than six months.

<sup>30</sup> Although there are 3,600 members of the GBA, not all of them practice criminal law and not all of them practice in the courts. ABA ROLI estimated that about 2,200 to 2,400 lawyers practiced criminal law at any time.

<sup>31</sup> Data provided by ABA ROLI, Georgia, February 2012. The data does not differentiate between defense lawyers and Legal Aid lawyers.

<sup>32</sup> Interviews with Country Director, ABA ROLI, Georgia.

advanced trial skills trainings included 48 lawyers.<sup>33</sup> Nearly 800 lawyers participated in forensic and expert witness training, all provided by ABA ROLI.<sup>34</sup>

The three-day basic training on trial skills consisted of lectures on techniques (e.g., delivering an opening statement), practice in smaller groups and a critique during the first two days, with the third day reserved for a mock trial. The training also included the necessary preparation for jury selection for the new jury trials. The forensics training comprised instruction on effectively using expert witnesses, with a university professor of forensics present on the first day of training. The second day of training included the chief forensic psychiatrist of the National Forensics Laboratory and an expert from the Laboratory to demonstrate traffic reconstruction software.<sup>35</sup>

ABA ROLI's future training plans for defense lawyers include an advanced criminal process course with more practical trial skills, plea-bargaining tactics and advanced jury selection techniques, a legal writing course for motions and appeals, and creation of a practice manual. ABA ROLI also has been designated a qualified trainer for Continuing Legal Education (CLE) purposes for the Georgia Bar Association. The training provided for the new CPC and the advocacy skills training would qualify toward the GBA's required CLE credits.<sup>36</sup> ABA ROLI initiated the training in 2009 to provide the training on the new CPC in cooperation with GBA. Building on the success of this training program of more than 1,800 defense lawyers on the CPC, trial advocacy and forensics, the head of the committee on continuing legal education at the GBA in an interview emphasized that they were also going to do their own training on the CPC. This would help expand the reach of the training and provide sustainability.

The majority of defense lawyers interviewed for this review did praised the ABA ROLI training as "high quality," A sizeable contingent also thought that the two- and three-day trainings on the CPC and advocacy skills was not enough for all defense lawyers to sufficiently grasp and apply trial skills and other knowledge being imparted during the class. Several interviewed trainers for the ABA ROLI-taught course thought two such (two- and three-day) trainings, plus a refresher course, were necessary. Additionally, interviewed defense lawyers noted that the bar examination is not that difficult to pass, and consequently, there is a wide range of skill among the 3,600 members of the GBA, which could be producing inconsistent results unless more training is provided for those lawyers who are not as skilled. Besides needing increased training in trial skills, defense lawyers thought many in the bar were not keeping up with the changes in relevant laws sufficiently to maintain the effectiveness of their practice.

Still, most interviewed prosecutors were noticing a tangible if incremental change in the skills of defense attorneys, with some, for example, now using their investigative rights under the new CPC, and others conducting more robust cross examinations and making stronger opening statements. Interviewed judges noted more balance in regular cases in the skills of prosecutors and defense attorneys, and that they could discern differences in the abilities of defense lawyers who went through the ABA ROLI training.

## **B. Training of Legal Aid Service Lawyers**

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<sup>33</sup> Data provided by ABA ROLI, Georgia, February 2012.

<sup>34</sup> *Id.*

<sup>35</sup> Interviews with Country Director, ABA ROLI, February, 2012.

<sup>36</sup> *Id.*

The Legal Aid Service is part of the Ministry of Corrections and Legal Assistance. In Georgia, there are 105 permanent Legal Aid defense lawyers in 11 regions and four consultation centers.

ABA ROLI provided the same theoretical and trial advocacy skills training for the Legal Aid lawyers as for the defense lawyers. More recently, the Legal Aid lawyers have participated in forensics training. The Director of the Legal Aid Service noted that Legal Aid lawyers have been through “train-the-trainer” instruction in trial skills with ABA ROLI support, and praised their exceptional abilities. Although the director thought it was still early to evaluate the effects of the new CPC, he claimed that in 2011, Legal Aid had 17 full acquittals, an improvement over past years.<sup>37</sup>

In terms of impact, the interviewed Legal Aid lawyers noted having taken trainings as early as 2006 with ABA ROLI on investigation techniques and early drafts of the CPC. The training that they were using the most at the present time was the trial advocacy skills training by ABA ROLI. The mock trials as part of that training were perceived to be the most helpful since it was “like real” as one lawyer said, plus there was a week of instruction accompanying the mock trials. A Legal Aid lawyer from Mtskheta said that the trainer who was from the U.S. had a well-prepared case study for the mock trial training and the lectures were very good. In the mock trial done in Mtskheta, with prosecutors and judges from the area, the results of the trials were half acquittals and half convictions.

The Legal Aid lawyers generally praised the ABA ROLI training for increasing their confidence and skills in both non-jury and jury trials. The only complaint was that the demand was often so high that the lawyers could not get into the specialized training courses.

### **C. Overall Effects of Defense Attorneys’ Training**

***Minimal Increase in Due Process for Defense Attorneys Thus Far – But More for Legal Aid Lawyers:*** The new CPC and training for prosecutors, defense lawyers and judges was supposed to create a more adversarial system with the placement of emphasis on the trial.<sup>38</sup> However, interviewed defense lawyers complained that despite their training in advocacy and the new CPC, as well as the CPC training for judges, they still were not able to obtain any acquittals for their clients. The reason given by most defense lawyers and stakeholders was the lack of independence of the judges. Other defense attorneys noted that despite the ABA ROLI training, there was still a certain lack of knowledge among the broader defense lawyer community on how to use the investigation rights allowed under the new CPC, due primarily to the broad range in skills and experience among the country’s defense attorneys. However, even those who had taken the course and were knowledgeable in conducting investigations under the new CPC were reluctant to do so because there was still a widespread feeling that this would not help avoid a conviction for the reasons noted above. The exception were those experienced defense lawyers trained by ABA ROLI representing more affluent clients, who did initiate investigations to unearth evidence that could get prosecutors to drop charges, negotiate a better plea agreement, or obtain a lesser sentence for the defendant at trial.

Legal Aid lawyers, a smaller and more select group defending indigent clients, are successfully using their training to increase their number of acquittals, at least according to the management of the Legal

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<sup>37</sup> This number was disputed by the Georgia Young Lawyers Association, who claimed the Supreme Court web site only noted seven acquittals for all of Georgia in 2011.

<sup>38</sup> COE Criminal Justice Reform Interagency Coordination Council, Criminal Justice Reform Strategy, 2010, p. VIII.

Aid Service.<sup>39</sup> However, the Legal Aid lawyers seemed less aggressive in using practices under the new CPC in which they had training, such as motions to exclude evidence. The issue may be that Legal Aid lawyers are called in to represent clients at a late stage of a proceeding, such as at the plea negotiation stage, where such practices are not needed.

### **U.S. Department of Justice Court Monitoring Project**

The U.S. Department of Justice's Court Monitoring project was launched in November 2008 and has continued into 2012. The program is managed by an Embassy-based RLA and by the DOJ Staff Attorney, and is implemented through Fair Trial-Georgia, an NGO. The monitoring project has teams at the city courts in Tbilisi, Kutaisi, Rustavi and Mtskheta. The monitors are lawyers who are paid a fee to cover their expenses, and are trained to be objective and neutral in their observations. The monitors use a questionnaire with multiple-choice and open-ended questions for each type of hearing, such as those for a plea agreement or for a trial. They also transcribe facts and dialogue on laptops while in court. The monitors rate the performance and behavior of judges, prosecutors and defense attorneys, and also note the behavior of court staff.

The U.S. Department of Justice uses these data and creates a confidential report<sup>40</sup> for the Chairman of the Supreme Court and the MOJ, who then use it for training purposes. The U.S. Department of Justice has seen changes implemented at the courts and by the prosecutors due to the reliability of the underlying monitoring data and efforts by the RLAs to compel better practices. The RLAs brief the U.S. Embassy front office on significant developments or issues identified by the court monitor. Under the new CPC, the data from this court monitoring also will be used for “before-and-after” views of court practices on issues such as plea bargaining, pre-trial hearings and the use of confessions, among others.

Several issues revealed through the work of the Court Monitoring Project are demonstrating its effectiveness thus far. For example, court monitoring showed that prosecutors were habitually late to court, although they became more prompt after the MOJ was informed of this. A more serious problem revealed by court monitoring relates to the quality of prosecution motions and the accompanying judicial rulings on preventive measures, which often lacked legal and factual justification.<sup>41</sup> RLAs met with officials at MOJ, who acknowledged the need to resolve this problem. The Ministry designated a prosecutor administrator who would use the ICCMS to randomly review the quality of prevention motions (i.e., detention motions) prepared by prosecutors. The RLAs have also met with the leadership of the Georgian Supreme Court and plan to assist the Court with development of curricula and an European Court of Human Rights (ECHR) resource center to improve the overall quality of judicial decisions.<sup>42</sup>

The DOJ Court Monitoring Report also exposed problems with practices related to plea agreements that indicated a lack of judicial oversight, and the violation of due process rights.<sup>43</sup> DOJ stated that it is planning training programs for the judges on plea agreements aimed at strengthening judicial practices

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<sup>39</sup> Defense lawyers stated that whatever acquittals there were tended to go to Legal Aid lawyers, though this was never completely verified.

<sup>40</sup> The Review Team was not permitted to see these reports due to their confidential nature.

<sup>41</sup> U.S. Department of Justice, Office of Prosecutorial Development, Assistance and Training, Quarterly Report for the Third Quarter of the Fiscal Year 2011, p. 10.

<sup>42</sup> *Id.* at p. 10-11.

<sup>43</sup> *Id.*

related to the exercise of their newly broadened discretion to review the fundamental fairness of plea agreements.<sup>44</sup>

***Fair Trial's Perspectives on the Effects of the DOJ Court Monitoring Project:*** According to the head of Fair Trial, the work of the Court Monitoring Project is beginning to have a slow but tangible effect on the behavior of judges and prosecutors, despite the fact that they only used seven monitors for the whole country. At first, the monitor's presence caused some change in the behavior of the judges and prosecutors, but this soon ended. Once, however, without noticing the head of court monitoring, a judge did not question the defendant about the plea agreement he was about to enter, despite the requirements of the CPC. The next time, the same judge saw and recognized her, and spent 45 minutes asking another defendant questions about the plea agreement.

The head of Fair Trial submitted the rough draft court monitoring report in English to the Department of Justice, which translates the report into Georgian for their use as well as that of the Court and MOJ, after grammar, spelling and punctuation are corrected. The head of Fair Trial's only feedback was related to the improvement in practices the court monitoring team observed after the reports were received. RLAs also frequently task Fair Trial-Georgia with focusing on certain areas of criminal practice (i.e., plea bargaining practices, the collection of fines, or other areas where court monitors can gather helpful information to target court practice deficiencies). The head of Fair Trial was seeing that the monitoring was having an effect, though very slowly. In her view, to be accepted, effective data had to be based on more than opinion or exaggeration. The court monitoring indicated there was evidence of payments of fines for plea agreements before the judge had approved the agreement. The head of court monitoring stated that there had to be data showing more than one incident for this illegal practice of premature payments to be acknowledged.

At the RLA's recommendation, Fair Trial-Georgia is now providing training to other organizations such as Transparency International, USAID's JILEP and the Georgian Young Lawyer's Association (GYLA) to help them establish their own court monitoring projects. The head of Fair Trial-Georgia stated that the results of these new court monitoring projects would not be confidential. This additional court monitoring data will increase the possibility of eliciting positive changes from the MOJ, the defense bar, and the courts.

### **III. FINDINGS: LAW ENFORCEMENT STRENGTHENING ACTIVITIES**

The Review Team assessed four law enforcement strengthening activities funded by INL through the post-2008 \$1 billion in U.S. assistance. One activity was designed to train investigators and the other officers in understanding and application of relevant provisions of the CPC (Training for Police and Investigators in Both Substantive and Ethical Obligations under the New Criminal Procedure Code), and three "commodity"-based activities (the TETRA Emergency Communications Project, the Police Patrol Vehicles Project, and the National Crime Database Project), designed to improve the communications, mobility, and information access capabilities of police branches under the MoIA.<sup>45</sup> This review assessed the degree to which these activities are meeting their objectives by addressing the following questions:

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<sup>44</sup> Interviews with DOJ RLA, February 2012.

<sup>45</sup> All law enforcement departments in Georgia are part of the MoIA. While there are 37 different departments and divisions listed as part of the "Structure of the Ministry of Internal Affairs of Georgia" (<http://www.police.ge/?lng=eng>) the departments that have received the bulk of INL assistance include the Criminal Investigation Police, the Patrol Police, the Special Operations Division, and the MoIA Forensics Bureau.

- To what extent did the training provided with USG funding improve officers’ understanding and application of the relevant provisions of the new CPC, and their abilities to carry out their relevant duties?
- How has the relevant USG-funded equipment improved law enforcement communications in Georgia? What difference is it making in officers’ abilities to carry out their law enforcement duties?
- How has the provision of USG-funded vehicles improved officers’ mobility and their abilities to carry out their duties?
- How has the USG-funded database equipment improved law enforcement criminal data tracking in Georgia? What difference is it making in officers’ abilities to carry out their law enforcement duties?

The current activities are part of ongoing efforts by INL to support Georgian government reforms to its law enforcement agencies that preceded the 2008 conflict with Russia. Specifically, following the Rose Revolution in 2003, the Saakashvili administration, including the Minister of the Interior and Ministry of Internal Affairs (MoIA) staff, undertook a series of reforms to restructure and professionalize the police, many of the branches of which historically had been viewed as corrupt and ineffectual. This process began with the wholesale firing of the Traffic Police and 80 percent of the staff of the Criminal Investigation Police, and the disbanding of the Traffic Police itself. In turn, this led to increased demands for new officers, as well as training these officers, including training of officers in the relevant provisions within the new CPC. After officers from these branches, as well as rank-and-file officers from other Georgian police bodies, were fired for corrupt practices, the MoIA undertook a series of steps to professionalize the police,<sup>46</sup> which included the introduction of more modern infrastructure and equipment. The first installment of “base stations” and mobile radios for the TETRA Emergency Communications Project (Activity #5), and the computers and software licenses that would become the National Crime Database (Activity #7) were provided by INL in 2003 and 2006,<sup>47</sup> respectively.

**QUESTION #4: To what extent did the training provided with USG funding improve officers’ understanding and application of the relevant provisions of the new CPC, and their abilities to carry out their relevant duties?**

INL has been working with the MoIA to train its police officers and investigators in the nuances of the new CPC under the INL-supported activity, “Training for Police and Investigators in Both Substantive and Ethical Obligations under the New Criminal Procedure Code.” The training has focused primarily on changes in criminal investigation protocols and in court procedures. The Review Team analyzed the content of this training, gauged opinions of the course participants on the instructors, and examined the overall effectiveness of the course. The class on the new CPC has been taught a total of 19 times over 2010-2011.

It should be noted that INL taught a range of classes on CPC-related matters, including testimony skills development, interview skills development, crime scene investigation techniques, homicide investigation techniques, and evidence handling. The Review Team observed one of these classes (“Interview Skills Development”), which was taught by a team of U.S.-based FBI instructors. While time and resource constraints prevented the Review Team from an in-depth analysis of other INL-taught or

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<sup>46</sup> The MoIA increased the salaries and provided new uniforms and equipment for those that remained, introduced a new training curriculum, replaced supervisors and managers, increased the requirements for entry into police service, and established or amended a number of laws and rules.

<sup>47</sup> U.S. Embassy/Georgia Calendar Year 2011 End Use Monitoring Report

supported courses, it did assess overall perceptions of quality of the courses and instructors, and the process of developing courses and selecting MoIA participants.

INL'S training assistance on the new CPC, and on the other aforementioned courses, followed its support to the Georgian government's earlier law enforcement reforms following the Rose Revolution (see above). The mass dismissals of officers, for example, created the need for a large number of new personnel, although the new entry requirements (i.e., applicants had to be Georgian citizens, have completed secondary school, and be between 20 and 35 years old) restricted to a certain degree the pool of applicants from which MoIA could draw. Due to this shortage of personnel, the initial groups of applicants were enrolled in a shortened two-week training program within the Police Academy to speed their deployment to the streets. Many of these officers have not received any additional training beyond this abbreviated course, and are still serving within the MoIA. While the basic Police Academy training has been expanded to six weeks,<sup>48</sup> MoIA has attempted to "backfill" gaps in training for this aforementioned group of officers, and also provide separate more specialized and advanced training, including INL-supported courses, for other officers.

***Application of CPC Course Learning:*** The effectiveness of this activity was assessed by examining the degree to which the new, relevant components of the CPC are being taught, absorbed, and applied effectively. There are a number of new CPC provisions that have the potential to significantly impact police and investigators' practices and behavior. These include the following:

- a. Greater scrutiny of search and seizure practices;
- b. Greater scrutiny of handling of evidence practices;
- c. Whether statements were obtained from individuals voluntarily;
- d. Implementation of a "super-exclusionary" rule, in which a defendant can have his or her statement, including their confession, excluded, regardless of whether or not it was obtained voluntarily; and
- e. The greater likelihood of police being called on to testify (i.e., they can now be called as a witness for the defense).

With investigators telling the Review Team that they have had to testify more frequently since the new CPC took effect (57 percent of those interviewed have had to testify at least once), one of the key benefits of the CPC training thus far in helping investigators apply the new CPC in their work and also carry out their duties effectively has been its focus on improving testifying techniques, especially the second day's activities focusing on successful trial techniques. These activities are generally used in conjunction with the new mock trial courtroom at the Police Academy and made the training "very realistic." In particular, interviewees stated that the "Testimonial Exercises," in which each investigator gives testimony on a specific task that frequently comes up during officer testimony in a criminal trial were highly useful. The investigator is videotaped providing this testimony, and then critiqued by the instructor and his fellow course participants.

Investigators' training on the other relevant CPC provisions has not significantly been put to the test in the courtroom or field, according to Review Team interviews. In part, this is due to the fact that the new CPC provisions only went into effect in October 2010. Other requirements, such as only being able to use statements from individuals that were obtained voluntarily by officers, will not officially go into effect until October of this year. Overall, investigators stated that no cases have been dismissed that

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<sup>48</sup> In contrast, the duration of police academies within the U.S. are generally six to eight months - see <http://www.policeacademyinfo.com/>.

they know of due to violations of these rules. However, there are early signs that the training regime and supporting infrastructure that INL has established is providing the necessary practical instruction and tools for investigators to absorb the CPC requirements applicable to them (see above) and incorporate their practice into their work while improving their investigative abilities. Key approaches and positive signs based on this regime, as well as two MoIA-based institutional issues that are not significantly hampering this process at this point (but could potentially affect it in the future if not addressed by the Ministry), follow below:

- **Interview Skills Development Course Observation:** The Review Team observed an “Interview Skills Development” course for Georgian investigators, which was taught by three FBI field agents. The theme and content of the course were highly relevant, as they dealt primarily with obtaining statements – and ideally, confessions – from individuals on a voluntary basis, which investigators will be required to do beginning October 2012 under the new CPC. The instructors’ knowledge of this process from an American perspective was excellent, and their ability to teach this material appeared strong as well.

The need to translate what was being said by both instructors and participants obviously slowed delivery of the course, but the translation process for both sides was executed in a largely seamless manner, with participants and instructors utilizing headsets, the former speaking through tabletop microphones, and instructors using wireless microphones. The only limitations were during group exercises in which participants sometimes turned to converse amongst themselves, or in which several individuals were speaking at once, thus making smooth translation difficult. Course materials provided by the instructors to the Review Team in English had all been translated into Georgian.

- **MoIA Trainer-of-Trainer CPC Approach:** MoIA is conducting retraining of investigators on the new changes of the CPC, and has done so through a “trainer of trainers” approach, which INL has supported. Through this approach, MoIA has retrained nearly 5,500 of its investigators. There are exams at the end of such courses; however, results were not made available, and there are no records that indicate how much of the training has been absorbed, retained and applied by participants after the conclusion of these courses. Interviewed staff from both INL and MoIA acknowledged the necessity of having the INL CPC class taught in addition to the MoIA-taught class, as the latter focused more on a basic understanding – and commitment to memory – of the core aspects of the Code, whereas the former emphasized the application of these components in the courtroom and the field.
- **Value of Expert-Taught Short-Term Courses:** Multiple interviewees from parts of MoIA cited the value of the short-term courses taught by the INL senior police advisor, legal advisor and U.S. law enforcement and legal experts. Many of these short-term courses were taught by law enforcement experts from the U.S. state of Georgia, which has built strong ties to the Republic of Georgia. Travel tours in which MoIA officials have journeyed to the U.S. to observe American law enforcement personnel, equipment and best practices in action have been especially useful, according to interviewed MoIA staff. For example, a team from the MoIA Forensic Criminalistic Division traveled to the United States in April 2010 to observe the Atlanta Police’s crime lab in action and speak with lab experts, in addition to visits to other forensics labs in other U.S. locations. That visit provided the MoIA lab team with exposure to U.S. forensics experts and their knowledge, suggestions on equipment and techniques, and additional contacts. When combined with Georgia-based INL

training and equipment support, this trip contributed to the lab's rapid development and modernization, to the point where it is now ready to apply for its international accreditation.<sup>49</sup>

In all of these cases, teaching by experienced law enforcement and legal professionals has enabled strong, 'real world' instruction. INL training has also been highly effective when a course or courses have been paired with the provision of new resources from INL (or from other U.S. sources), such as providing the MoIA forensics lab sophisticated cameras in conjunction with crime scene photography courses.

- **Leveraging Coursework:** INL staff has leveraged the input they have received from participants during classes to respond to officer/investigator needs. For example, the primary CPC instructor noted that in teaching the class over time, she was receiving a disproportionate number of questions on the complexities of properly investigating domestic violence cases, not just within the context of the new CPC, but in their own right. This led to the development of the domestic violence class, which will be taught beginning in 2012.<sup>50</sup> MoIA has also leveraged the INL training content. In conjunction with courses taught on cyber crime, and perhaps to provide an incentive for INL to maintain and expand their cyber crime course roster, MoIA stated they would be establishing a cyber crime unit staffed by four to five fulltime investigators and based within its Criminal Police and Operative Technical Departments.
- **Reinforcement of Knowledge:** Reinforcement of knowledge learned in courses also is a problem. While MoIA does have in-service, follow-up trainings, it is not set up to help reinforce important job skills or prepare officers for greater responsibility in the future, according to INL. Additionally, there is no system in place to track an officer who has participated in any of the trainings if they get transferred. MoIA acknowledges that it does not have a comprehensive human resources system, so there is no means of knowing the attrition rate of officers leaving the force. The Police Academy stated that such a system for 22,000 officers is being created and will be implemented in approximately 6-to-12 months. On the INL side, tests are not administered at the end of the CPC course, based on the not-unjustified assertion that participants would then be focusing on passing the test, not actually learning the material
- **Course Selection Process & Long-Term Planning:** The course selection and participant selection process for the INL courses offered to MoIA is largely informal and short-term, which does appear to respond to immediate MoIA training needs, especially when coupled with the provision of new resources to MoIA (the mock trial courtroom). MoIA conducts needs assessments (questionnaires) of its main branches to determine training necessities and INL responds with list of upcoming courses, dates of those courses and number of available slots. For the future, MoIA has asked for more training in fighting cybercrime, in investigation techniques, anti-trafficking and crowd management.

There appears to be a lack of systematization and documentation in the MoIA training process in terms of long-term planning of courses and career development for course participants, according to INL.<sup>51</sup> INL, for example, has never been given the curriculum of the basic training course at the Police Academy, so INL cannot make suggestions or align its training with the MoIA basic training

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<sup>49</sup> Interview with MoIA Forensic Criminalistic Division staff. January 25, 2012.

<sup>50</sup> Interview with INL Legal Instructor Stacie Summerhill, January 31, 2012.

<sup>51</sup> Interview with INL staff, January 20, 2012.

course. Similarly, INL noted a general resistance to strategic planning training and a lack of Standard Operating Procedures (SOPs) in Georgian police practices. Georgian officials stated that they had these in place. With regard to the new CPC, for example, the officials stated that the CPC provisions are the SOPs, and that they build this into their training materials. One acknowledged that it would be useful to have a “book” of rules, but that this ultimately would not be practical because it would impede MoIA’s flexibility.<sup>52</sup>

When asked for specific examples of documenting their planning processes for training of officers and investigators, the MoIA did provide one document<sup>53</sup> on such planning for a specific area of training – crowd management – in which it worked with INL support to plan a series of increasingly advanced trainings over the 2010-2011 period. A needs assessment that queried law enforcement units on their requirements in this area was followed by “basic” trainings in crowd control. These trainings were conducted with INL support in August 2010, with a focus on proper evidence gathering, arrest techniques, first aid for injuries common to crowd events, and senior-level “command and control” tactics and strategies. According to the MoIA document describing the planning process for these courses,<sup>54</sup> this was followed by more advanced coursework in April and May 2011. While it was not immediately clear from the titles or descriptions of these courses (i.e., Crowd Management Command Course, Strategic Planning for Crowd Management, Evidence Gathering for Crowd Management), how the trainers covered different or more sophisticated content in these more advanced sessions than in the 2010 trainings, INL notes that these 2011 courses were taught to progressively-senior level officers (i.e., from frontline to tactical to operational officers). The 2011 courses did culminate in a final, full-scale practical exercise to enable application of the training content in a simulated real-world crowd situation in which all of the aforementioned officers at these varying levels were meant to work together.

**QUESTION #5: How has the relevant USG-funded equipment improved law enforcement communications in Georgia? What difference is it making in officers’ abilities to carry out their law enforcement duties?**

TETRA is an integrated communications system with a planned central dispatch facility for Georgia’s major cities tied into a national network. It will allow for officers, as well as fire and rescue units, to receive emergency calls and respond more quickly, provide quicker, coordinated responses to national emergencies, and build redundancies into the system.

The foundation of the present TETRA system was launched in 2003. Phase I involved installation of nine base radio stations, 50 car-mounted radios, and 221 handheld radios. Phase II, now underway, is at the procurement stage, and the new base stations are on order. It will involve expansion of the number of base units, which will include up to 54 new base stations to enable wider geographic system coverage. The system is currently providing coverage in Tbilisi as well in Batumi, Gori, Rustavi and Mstkheta, The goal is to provide coverage to approximately 80 percent of the country under the expanded system, with the fully expanded system expected to be up and running in the second half of 2012.<sup>55</sup> Additionally, as

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<sup>52</sup> Interview with Head of MoIA Police Academy Project Management Team, January 31, 2012.

<sup>53</sup> Information on Crowd Management Trainings Conducted with the assistance of the U.S. State Department’s Bureau of International Narcotics and Law Enforcement (INL). Ministry of Internal Affairs.

<sup>54</sup> *Id.*

<sup>55</sup> Interview with senior MoIA officials. January 25, 2012.

part of the system, establishment of a “unified command response center” is underway. This center, which will enable the GOG to respond to law enforcement, fire and rescue, and other emergency calls from one place), is expected to be functional in April/May 2012.<sup>56</sup>

Officers who have been given access to TETRA cite the ease of communication with central communication centers and quicker notification of incidents. The system has been piloted in a small number of cars/officers and within a small geographic area. . MoIA estimates full network coverage using the system’s envisioned ‘one-click’ radio access (about 80 percent of Georgia) in about six months. Hence, wider testing and surveying will be possible only when its use is expanded.

Both INL and MoIA concede that implementation of the second phase has been a little slower than expected due to the pace of installation and activation of the equipment by the contractor (Motorola). INL stated that this was not unusual in a program of this size. INL also has provided training support to Georgian TETRA implementers by sending an MoIA technical team working on its implementation and the expansion of their emergency contact system to the U.S. in February 2011. This study tour demonstrated how the U.S. “911” system operates, and to provide guidance on creating an integrated police, fire and rescue, and crisis management and response system in Georgia.

The TETRA performance measures were output-level metrics that tracked the ongoing installation and expansion of this emergency network. The measures were: *1) Installation of six to eight new base stations to expand the geographic reach of the TETRA network and connect East and West Georgia; and 2) Connection of six to eight new base stations to the existing base stations in the Tbilisi and Gori areas.* The Review Team confirmed the functionality of the system by watching MoIA staff use the Motorola hand-held radios, and received oral confirmation from INL and MoIA that the new base stations were being installed and connected to the existing base stations, or that near-term plans for their installation/connection were underway.

**QUESTION #6: How has the provision of USG-funded vehicles improved officers’ mobility and their abilities to carry out their duties?**

In December 2010, INL donated 74 Toyota Land Cruisers and 25 Toyota Hi-Lux 4x4 pickup trucks to MoIA. The 99 off-road vehicles were intended not merely to provide better patrolling of remote, mountainous areas that had suffered as a result of the August 2008 conflict with Russia, but to project a “robust police presence in remote mountainous areas.”<sup>57</sup> The majority of the Land Cruisers (80 percent) have been assigned for responsibilities in and around the Shida Kartli “conflict area.”

The Review Team interviewed a small group of patrol vehicle officers who were based in Gori (led by the Head of the Transportation Office of the Gori Special Operations Main Office and the Logistics Officer at the City Hall of Gori) who had received project vehicles. They stated that they had one of the INL-supplied Toyota Land Cruisers and seven of their Hi-Lux pickup trucks. They are responsible for all of Shida Kartli and patrolling the administrative borders of South Ossetia. The vehicles had been painted an “army green” color from the original white to blend in better with their typical rural surroundings. The truck bed had been scratched from storing equipment and the bottom edges of the truck were getting a bit scratched as well, but otherwise it appeared to be in good shape.

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<sup>56</sup> Interview with senior INL staff. January 20, 2012.

<sup>57</sup> CY 2011 INL End Use Monitoring Report.

**Patrol Vehicle Performance:** The Gori-based officers and, separately, senior MoIA officials were asked informally about MoIA’s progress against the performance measures listed by INL for this activity. Quantitative data was requested but only made available for Measure #1:

- *Measure #1: Augmented patrol coverage of former conflict areas and areas adjacent to separatist regions.* When asked if they were now able to provide augmented patrol coverage of their area (in Shida Kartli), interviewed patrol vehicle officers stated that they had always been able to cover “every spot” of the border even before these vehicles, but that reaching these areas was now easier and faster. They noted that these vehicles had better engines, went through mud and water more easily, and were able to get to places that other cars could not reach. As indicated above, approximately 80 percent of all of the Toyota Land Cruisers were distributed to Shida Kartli region, although information on the numbers of patrols before and after distribution of the new vehicles was not available.
- *Measure #2: New vehicles provide demonstrably improved response time by law enforcement authorities.* When asked if MoIA was tracking how quickly their new vehicles were reaching crime scenes or designated areas on their patrol routes versus their old ones, a senior MoIA official stated that Toyota vehicles normally reached crime scenes twice as quickly as their predecessors when taking the mountainous landscape and off-road driving into account. Prior to receiving the Land Cruisers and pick-up trucks, the MoIA official noted that they had to use the considerably slower, less-durable, Russian-made Niva and UAZ vehicles. However, MoIA does not appear to be officially tracking how quickly their vehicles are reaching their intended destinations.
- *Measure #3: Documented reduction in incidence of criminal activity.* MoIA had been able to document this reduction, according to the senior official. He based his assertion on criminal statistics in the MoIA document, “Results of Combat Against Crime in Georgia in 2010”<sup>58</sup> in comparison to the 2009 version of the same document (available only in Georgian).<sup>59</sup> A comparison of the data in the two documents does show a modest decrease, with 91 fewer crimes having been committed in Shida Kartli in 2010 than in 2009 (1205 versus 1296). However, these documents did not show a breakdown of the types of crimes the MoIA was tracking in Shida Kartli, and where those decreases had been. Moreover, since the vehicles were not distributed until December 2010, and this report was dated March, 2011, there is little overlap between the timing of the presence of the vehicles and the period likely covered by the report. Hence, there was likely little correlation between the crime level and their utilization.

It is worth noting that a widely-published external survey, the 2011 GORBI Crime and Security Survey for Georgia,<sup>60</sup> asked several questions on Georgians’ assessment of police performance, including, “How quickly did police arrive last time?” In response, 88 percent stated that the police had arrived “in time” to be of service versus 85 percent in the 2010 survey. However, this was an aggregated survey, and data was not made available for the Shida Kartli area in particular.

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<sup>58</sup> MoIA Information Analytical Department. Tbilisi. March 2011.

[http://police.ge/uploads/statistika/shss\\_statistika/BIULETENI-ENG-2010w.pdf](http://police.ge/uploads/statistika/shss_statistika/BIULETENI-ENG-2010w.pdf)

<sup>59</sup> Results of Combat Against Crime in Georgia in 2009.” MoIA Information Analytical Department. Tbilisi. 2010.

[http://police.ge/uploads/statistika/shss\\_statistika/BIULETENI.saqartvelo.2009w.pdf](http://police.ge/uploads/statistika/shss_statistika/BIULETENI.saqartvelo.2009w.pdf)

<sup>60</sup> Crime and Security Survey – Georgia, 2011. Georgian Opinion Research Business International (GORBI). April 2011 ([http://www.justice.gov.ge/files/Documents/analitikuri/GORBI\\_Justice\\_House\\_EU\\_ENG.ppt](http://www.justice.gov.ge/files/Documents/analitikuri/GORBI_Justice_House_EU_ENG.ppt))

The patrol group stated that its one Land Cruiser was considered its “Headquarters Car,” as it was the only vehicle containing a radio enabling it to communicate with its headquarters. The pickup trucks, in contrast, contained no radios, with officers communicating via mobile phones. Similarly, INL’s Senior Police Advisor had pointed out that the 99 vehicles donated to the MoIA were “bare bones” models lacking sirens, police lights and other normally-standard items on police vehicles, as available funding had only allowed for these models.

**Maintenance Issues:** INL noted that there is a consistent lack of maintenance and preventive maintenance<sup>61</sup> in GOG’s handling of equipment. While interviewees asserted that this view was applicable to all INL-provided equipment, INL’s concern was more pronounced in the case of the donated patrol vehicles, since these operated in less-than-ideal conditions, and preventive maintenance, or the lack thereof, could extend or shorten the life of the vehicle.

The group of patrol officers interviewed by the Review Team stated that none of the eight vehicles that they drove had yet needed repairs, and that they had only required oil changes thus far. When maintenance was needed, they stated they would drive to Tbilisi. However, they also noted that they had only received the vehicles in December 2010.

INL stated that it will explore various ways to address potential maintenance issues this year. For example, one plan being considered would require that preventive maintenance measures be clearly articulated in all transfer documents between INL and MoIA. INL will also start requesting the maintenance records of the donated vehicles. However, INL is less supportive of a separate potential strategy that would require submission by Georgian Ministries of preventive maintenance plans before USG equipment purchases are discussed. INL stated that there were limits to how involved they could get in instructing MoIA on its internal procedures.

MoIA has stated that it does maintain a general government “instructions and guidelines” document on the use, storage, and maintenance of vehicles, which it referred to as “Ministerial Order No. 717,” (09.08.2010 update). However, this Order was only available in Georgian and was not specific to the donated vehicles. MoIA stated that the donated vehicles came with their own manuals/instruction books. MoIA did not say it followed its maintenance schedule, however.

**QUESTION #7: How has the relevant USG-funded equipment improved law enforcement communications in Georgia? What difference is it making in officers’ abilities to carry out their law enforcement duties?**

The Database project was initially launched as a vehicle registration system, and then expanded to include administrative violations and criminal histories. The current phase of the project entails a significant expansion of access to the database through the distribution of both police vehicle-based “on-board” computers (approximately 170 of these) and fixed computer terminals across a number of Georgian regions (approximately 200). This is significant, in that officers in the more remote areas of the country will now have immediate access to driver, administrative and criminal data. The current phase

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<sup>61</sup> While the primary focus of this review is on assessing DOJ and INL activities with regard to their potential and actual impact (i.e., in the case of the donated patrol cars, augmented patrol coverage, improved response times, reducing incidence of criminal activities), the maintenance of these vehicles must be considered as well, since the care of these vehicles, for example, will affect their ability to meet the aforementioned performance measures.

also consists of an upgrade in capacity at the project's data center at MoIA to support the anticipated major increase in user numbers. MoIA is also providing training and 24/7 hardware, software and systems support for approximately 800 officers.

The Database contains multiple user levels with increasing levels of access depending on an individual's specialization and seniority. At the level of the Patrol Police, for example, officers only have access to criminal records. Investigators are given a greater degree of access, and are able to search through, for example, fingerprint records. Senior investigators have still more access to sensitive information, such as counter-intelligence operations data. About 50 individuals have full access to all database information.

A key impact of the database has been MoIA's utilization of the technology and training provided by INL to develop it to help the Ministry create tools of its own. Specifically, it used this assistance to develop "Police Pads," which are hand-held tablet computers given to investigators, neighborhood police and patrol police that allow them to access the National Crime Database. Utilization of the database software enabled them to create a new interface for the database through the Police Pads. These new devices were MoIA-funded, are now manufactured in Georgia, and have recently been patented, according to MoIA senior staff. Another example of leveraging this technology was the Patrol Police's development of a device that integrates with the Database system and prints GPS-stamped tickets for traffic violators and enters the ticket data into their electronic records. Investigators interviewed for this review stated that the database also had made it much easier to track down witnesses directly or through contact with their families.

As with the TETRA project, performance measures for the National Crime Database were straightforward, output-level metrics that tracked the expansion and training on the new system. The measures were: 1) *Approximately 170 police vehicles equipped with on-board computers*; 2) *Capacity upgrade for data center to accommodate new users*; and 3) *Approximately 800 police officers trained on the new system*. The Review Team was given oral confirmation by INL that these measures had been or were on their way to being implemented. The only outcome-level indicator – expanded database access for police units nationwide – would likely be fulfilled if the aforementioned output indicators for this project met their explicit or implied targets.

## **IV. CONCLUSIONS**

### **A. Conclusions: Rule of Law Activities**

*Based on Review Team interviews and observations, the quality and extent of the training provided to prosecutors in Georgia by the U.S. Department of Justice is a major achievement.* The interviewed prosecutors, including the prosecutor who tried one of the first two jury trials in Georgia, were pleased with the training and felt confident in their skills. In particular, prosecutors appreciated the mock jury trials and accompanying training by OPDAT primarily through its Embassy-based RLAs. Although some of the interviewed prosecutors had previous advocacy training, they appeared to be using those skills learned through the 2010 mini-seminars and the longer mock trial trainings provided by DOJ. The study tour organized by DOJ for the first prosecutors to try jury trials in Georgia provided them an essential view of actual jury trials, especially jury selection.

The prosecutors are well trained as a result of the DOJ classes. The new CPC has not increased their burden of work, according to the interviewed prosecutors, although they acknowledged having large caseloads of investigations and long hours, which could increase the possibility of mistakes or less-

thorough written submissions. Separately, DOJ-supported court monitoring has revealed deficiencies that require corrective training, such as prosecutors' failure to substantiate motions for measures of restraint (e.g., custodial detention, house arrest). Another high-priority area for future training stems from systemic challenges, such as plea agreements, which may also require policy changes.

*The DOJ's unique qualifications and experience with jury trials and complex criminal trials were essential in organizing and conducting these comprehensive trainings.* This view was voiced by all interviewed judges, who also praised the effectiveness of the use of U.S. Federal judges as trainers. The peer-to-peer training organized by DOJ, which included discussions of specific examples and common problems between both sets of judges, appears to be a successful formula.<sup>62</sup>

Although trained in the new CPC and processes for jury trials, judges appear to be the weakest link in the new adversarial system. While this is not directly related to the quality or scope of the DOJ training, this dynamic impedes the due process rights of defendants and their access to justice when the judges are not exercising proper discretion. And while there is no universal consensus on the lack of independence of Georgian judges (and certainly no grounds for applying this perspective to all Georgian judges), opinions from the Georgian defense bar and a number of legal and international bodies (including the U.S. State Department<sup>63</sup> and USAID's JILEP Project), point to ongoing, institutional issues of impartiality among these issues that is affecting the full implementation of the new CPC provisions. Hence, if motions are always decided by judges in favor of the prosecution and their acquittal rate remains the same, the system is not truly adversarial yet.

ABA ROLI has trained a significant number of defense lawyers in the CPC, trial advocacy skills and forensic investigations. As there are a large number of defense lawyers practicing criminal law throughout Georgia, this process is ongoing. However, *this extensive training can be considered a success at this point, since without this intervention, most defense lawyers would not have been prepared to practice under the new CPC.*

The interviewed defense lawyers were all using their training in some way, either to be better advocates in court or to investigate allegations against their clients under the new CPC. The increased skills of the defense lawyers are becoming apparent to both the prosecutors and a judge who had participated in the second jury trial in Georgia. More experienced defense lawyers have been active in using investigations to improve the negotiating position of their clients or mitigate the sentences imposed, even if they cannot win an acquittal. None of the interviewed defense lawyers had won any motions to exclude evidence, however. Interviewed prosecutors confirmed this anecdotally by stating that they had always successfully thwarted any motions to exclude evidence by defense lawyers.

Many defense lawyers were perceived by prosecutors and even other defense lawyers as not performing investigations now allowed under the new CPC. There were valid reasons, however, for this

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<sup>62</sup> Although not directly related to the new CPC, court monitoring reports have revealed that the judges need assistance with writing decisions as confirmed by the deputy director of the High School of Justice and a judge interviewed. This problem with writing decisions was identified as early as mid-2011 and DOJ provided training for select judges at the U.S. Federal Justice Center in Washington, DC in November 2011. The High School of Justice has not appeared to complete training for the remaining judges in Georgia on writing proper decisions or even to have developed a curriculum. RLAs may have to renew offers of assistance to induce the HSJ to move forward on training.

<sup>63</sup> 2010 Human Rights Report: Georgia; U.S. Department of State

failure to conduct such investigations, according to interviewed defense lawyers. Services to support investigations, such as private investigators and private forensic experts, do not exist in Georgia. According to defense lawyers interviewed, investigations were often viewed as fruitless if the only outcome for the client was a conviction, or at best, a plea agreement. Defense lawyers outside of Tbilisi were sometimes paid minimal fees that might not be sufficient to compensate for a full scale investigation.

### **DOJ Court Monitoring Project**

*The Court Monitoring Project has proved to be a cost effective method of obtaining useful and important data on the issues of compliance with the new CPC and other behavior by judges, prosecutors and defense lawyers. The Georgian Supreme Court and the MOJ have taken corrective actions based on the court monitoring reports, the ultimate goal of court monitoring. The court monitoring also provides information on problems that can be resolved through additional RLA or MOJ in-house training of prosecutors, and through HSJ and/or RLA training for judges.*

### **B. Conclusions: Law Enforcement Strengthening Activities**

*Extrapolating from the Review Team’s interviews with investigators and officers, and from its course observation, the quality of the CPC training and related courses is high – both those taught by the in-country specialists (i.e., INL senior police advisor and INL legal instructor) and those taught by U.S.-based specialists brought over to teach short-term courses, as well as the travel/instructional tours to visit law enforcement facilities and trainers in the U.S. The strong ‘real-world’ nature of this instruction is epitomized by INL’s senior police advisor in Georgia – the value of having an experienced former police chief who is also a certified instructor/master instructor and has served in multiple law enforcement developmental missions for the U.S. around the world in that role cannot be overstated. It not only enables on-the-ground teaching on a range of courses (at both the basic and more advanced levels), but also in building strong relationships based on respect and trust with the MoIA.*

*Despite the quality of the CPC and its related courses, understanding of the course among MoIA officers (i.e., potential course participants), and how it differs from the MoIA CPC class (i.e., the DOJ class is skills-based, while MoIA’s focuses on learning the Code through memorization) is still evolving, leading some to question the necessity and utility of the DOJ CPC course.<sup>64</sup> “They ask why it’s necessary,” one instructor noted. Another challenge noted by INL is that the MoIA is a large organization dispersed over a wide area, and can be difficult to track, let alone change. There are 37 different departments and divisions listed as part of the “Structure of the Ministry of Internal Affairs of Georgia,”<sup>65</sup> although the bulk of INL assistance has gone to five of these branches – the Criminal Investigation Police, the Patrol Police, the Special Operations Division, the Neighborhood Police, and the MoIA Forensics Bureau, which together comprise about two-thirds of the Ministry. Overall, it should be noted – and INL interviewees pointed this out as well – that recent polls indicate a very high level of public confidence in the Patrol*

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<sup>64</sup> Interview with senior INL staff. January 20, 2012.

<sup>65</sup> <http://www.police.ge/?lng=eng>.

Police<sup>66</sup> and the police in general, with ratings putting their popularity higher than that of any public institution except the Church.<sup>67</sup>

Additionally, while the CPC trainings show promise, their longer-term effectiveness will only be better known after: 1) All provisions of the CPC go into effect in October 2012 (e.g., requirement by police to obtain statements in a voluntary manner); 2) Other practices or tools taught in the trainings are called upon, such as the training provided to investigators on testifying, which they reported has proven effective; and 3) The political will of Georgian judges to assert their independence against other branches of the GoU increases, which will likely result in more judicial and defense-based challenges that investigators and other members of the police have been prepared for in part through the CPC course (e.g., greater scrutiny of search and seizure practices, of handling of evidence practices).

MoIA, with INL support, has designed and implemented the TETRA integrated emergency and law enforcement system as a ‘one-click’ instant communication platform. At present, this one-click access has been piloted in a small geographic area that includes Tbilisi, Batumi, Gori, Rustavi and Mstkheta. Under Phase I of the TETRA project, MoIA installed 50 car-mounted radios and distributed 221 handheld portable radios. MoIA estimates full TETRA network coverage in about six months, which will cover about 80 percent of the country. *Hence, while the first phase of TETRA shows promise, the degree of effectiveness of the fully-integrated system will need to be ascertained once it is fully implemented.*

*While the donated vehicles are being utilized as agreed to, the MoIA has not assessed – beyond verification of the SUVs and trucks being used for their intended purposes – how its vehicles are performing against the agreed-to performance measures.* For example, MoIA is not officially tracking how quickly its vehicles are reaching their intended destinations, and is not investigating whether the vehicles are responsible for the small reduction in the incidence of crime in Shida Kartli in 2010. *Additionally, there appears to be a recurring tendency by the MoIA to neglect the maintenance and preventive maintenance needs of INL-provided equipment, and a need to instill a “culture” of maintenance among agencies receiving this equipment.* This view, which the Review Team heard during several interviews with INL staff, applied to all INL-provided equipment, although given the mountainous, rough-road, or off-road conditions in which the patrol vehicles were expected to function, their concern was greater regarding these donated SUVs and trucks. This perspective was substantiated by examples of previously donated equipment, such as INL’s recent provision of a number of “jaws of life” (i.e., Hurst tools), which had been donated to MoIA rescue and responsibility units. Due to lack of maintenance, these tools were no longer usable.

*In several instances, MoIA has been able to leverage INL-donated technology – and training in the use of that technology – to create additional tools on its own.* MoIA’s development of its hand-held tablet Police Pads is a good example of this, as is the Patrol Police’s development of the combined mobile database, GPS, and ticket-printing device (see Activity #7 Findings, above). In the case of the Police Pads, MoIA was able to utilize the software for the National Crime Database, as well as the training in its use, to extend this technology’s utility by creating a new interface for the database through this new device.

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<sup>66</sup> See slide 28 in “Crime and Security Survey – Georgia, 2011”, ([http://www.justice.gov.ge/files/Documents/analitikuri/GORBI\\_Justice\\_House\\_EU\\_ENG.ppt](http://www.justice.gov.ge/files/Documents/analitikuri/GORBI_Justice_House_EU_ENG.ppt)).

<sup>67</sup> See slide 54 in “Georgian National Survey (April 26-May 4, 2011)” [http://www.iri.org/sites/default/files/2011%20June%2028%20Survey%20of%20Georgian%20Public%20Opinion,%20April%2026-May%204,%202011\(1\).pdf](http://www.iri.org/sites/default/files/2011%20June%2028%20Survey%20of%20Georgian%20Public%20Opinion,%20April%2026-May%204,%202011(1).pdf).

The Police Pads were MoIA-funded and are now manufactured in Georgia. The devices and their technology also have recently been patented, according to MoIA senior staff.

**Utility of Current Performance Measures:** As discussed in the Methodology and Findings sub-sections above, INL established performance measures for each of its “commodity-based” activities (i.e., the National Crime Database Project, as well as the TETRA Emergency Communications and Police Patrol Vehicles Project). These are internal metrics that are binding between INL and MoIA, and are considered the standards of success for the activity. At the same time, these are output-level measures were intended to emphasize overall compliance with activity requirements and to allow MoIA (with INL monitoring) sufficient flexibility to find the most effective, efficient process to implement the Database project. Their ability to move beyond the immediate verification of project obligations (e.g., installation of on-board computers in approximately 170 police vehicles) to start tapping into the longer-term effects of INL assistance are thus limited, and could be expanded (see Recommendations, below, for Review Team ideas on this).

## V. RECOMMENDATIONS

### A. Rule of Law Activities

**Future Training for Prosecutors:** DOJ has been quick to respond with targeted training for prosecutors and meetings with officials on policy issues. DOJ should address the needs for training for prosecutors on witness interrogation and preventive measures. Future plans by DOJ include training on plea agreements with the prosecutors to confront the inconsistent treatment of defendants. This, along with RLA interaction with key GOG officials, should contribute to a change in implementation of plea agreements.

**Limited Jury Trial Experience for Prosecutors:** The ten prosecutors designated to try jury cases in Georgia would be well-served by follow-up training to strengthen the specific skills they will need for jury trials, especially jury selection. To increase their skill levels, prosecutors might act as “second chairs” or co-counselors at each other’s jury trials. Prosecutors should be encouraged to observe jury trials in Georgia as part of their learning experience.

**Sufficient Intervals between Trainings for Prosecutors:** Continued practice under the new CPC by prosecutors will reveal gaps or deficiencies that can be alleviated with training, which should be comprehensive so that all prosecutors eventually benefit either directly through DOJ or through its trainers. As was noted earlier in this review, prosecutors currently are participating in frequent trainings from DOJ, MOJ and other donors, and appear to be having difficulty recalling specific information learned in these courses. As much of this is due to the MOJ, which established this intensive pace of MOJ- and requested DOJ- course through its training schedule, this pace cannot be controlled by DOJ. Nevertheless, if sufficient intervals between trainings increase retention of course material (and shorter intervals cause the opposite), the RLAs should consider discussions with key MOJ staff, such as the Training Director of MOJ, to assure that prosecutors have sufficient intervals between trainings.

**Training for Defense Lawyers:** It is recommended that ABA ROLI direct training at specific problem areas such as motions for exclusion of evidence, and motions to obtain evidence under the CPC’s Article 39 and as part of investigations. The more experienced and successful defense lawyers who are also ABA ROLI trainers can transfer their practical knowledge of cost-effective investigations and productive use of the new CPC to help other defense lawyers.

**Forensics Training for Legal Aid Lawyers:** Some Legal Aid lawyers who were interested in investigations for their clients were unable to gain entry into the popular ABA ROLI forensics training. It is recommended that more forensics courses be added to accommodate all those interested.

**Expansion of Court Monitoring:** Based on its current activities, and pending availability of resources, it is recommended that the DOJ's court monitoring project be expanded beyond the seven monitors to other courts, or to more hearings, in order to more widely assess implementation of select aspects of the new CPC.

## **B. Law Enforcement Strengthening Activities**

**'Georgia 101' Training for Short-Term Instructors:** Based on the course the Review Team observed (Interview Skills Development), the U.S.-based FBI instructors had excellent command of their material and presented it well. To even further strengthen the content and materials provided by instructors as part of these and other INL-supported courses, the Review Team would recommend a basic overview of relevant Georgian law, criminal procedures, and recent changes to the CPC. This could be in addition to or part of INL's regular briefing to instructors on local culture and best practices, and would not represent an interpretation, but rather a primer for relevant instructors (e.g., FBI investigators) on some basic elements of Georgian law that would allow them to adjust their trainings – if they feel this is needed – for the Georgian law enforcement context. The briefing could include a memo, or even a conference call, with the senior police advisor ahead of their arrival.

**End-of-Course Testing:** As discussed in the Findings section, the chief instructor of the CPC Training Course for INL does not administer end-of-course tests to assess retention of knowledge, based on the concern that foreknowledge of the test would keep the participants' focus on passing the test, not actually learning the material. Such a concern has validity, but there are post-training methods that could test the students' retention of knowledge without diverting this focus. For example, the instructor could conduct a final group exercise in which participants are asked to role play various parts in the process of a case (i.e., investigator, prosecutor, witness) and apply the principles they have learned.

**TETRA Rollout Process:** Phase I of implementation of the TETRA project encompassed installation of 50 car-mounted radios, distribution of 221 handheld portable radios, and establishment of instant connectivity (i.e., 'one click') in a small area and among a small number of police cars in order to pilot the system. Since the Phase II expansion of the system will encompass population centers across a much bigger geographic area of the country, the Review Team recommends a phased approach that would begin with particularly sensitive areas of the country, such as Shida Kartli and the administrative border regions around South Ossetia and Abkhazia. A plan for this approach may exist, but again, this was not provided to the Review Team when MoIA was asked.

**Equip Patrol Vehicles in Conflict Areas with TETRA Radios:** In the Review Team's interview with the Gori-based police officers, it was notable that only one of the eight donated vehicles under their care (the Land Cruiser) contained a radio for communicating with headquarters, and officers in the seven pickup trucks had to communicate through the use of mobile phones. With such emphasis on placing the bulk of the INL-donated vehicles in the sensitive conflict zone of Shida Kartli, placing radios in vehicles operating in this environment would seem to be a necessity. The Review Team recommends installation of TETRA car-mounted radios in the donated vehicles, as these officers are most likely to be on the "front lines" of any incidents in this region.

**Creating a “Culture of Maintenance:”** INL has been considering various strategies to encourage stronger equipment maintenance practices by MoIA. INL stated that it was seeking out a “gold standard” for preventive maintenance of its equipment, with particular emphasis on its donated patrol vehicles. While such a common, universally applied standard may not exist, a number of U.S. and international maintenance plans could serve as the foundation for a suggested Georgia maintenance strategy, as could the recommended maintenance plans from Toyota itself for these vehicles.

INL has been reluctant to fully support a proposed strategy that would compel Georgian Ministries to submit a maintenance plan before any purchases by the USG would be considered. A more practical approach might be to articulate INL’s preventive maintenance requirements in the transfer documents between it and the MoIA, allowing the transfer of equipment to take place in part, but holding back delivery of a set amount of the equipment (e.g., half the patrol cars) until the Ministry had submitted a preventive maintenance plan and demonstrated on paper and through INL site visits that this plan was actually being implemented.

One way to “incentivize” greater attention to maintenance on MoIA’s part could be to provide a modest sum in a future budget for the upgrading of these vehicles. INL has already noted that the donated vehicles were “barebones,” and did not include basic police-car functionality (e.g., sirens, roof-top lights, side-mounted spot-lights, loudspeakers). These upgrades could be made contingent on the MoIA presenting – and demonstrating ongoing adherence to – maintenance plans for these vehicles, with these requirements written directly into the relevant (Amended) Letter of Agreement (ALOA).

Alternatively, funding could be set aside for the anticipated maintenance and upkeep of these vehicles over the next few years. The required development and adherence to a maintenance plan could again be written into the ALOA. The incentive for MoIA to agree to this requirement will be that these vehicles are valued highly by those in the field, if the Review Team’s interviews with the Gori-based officers are any indication, and will be missed if they break down and are unusable. The need for this maintenance will only grow more acute over the next few years as these vehicles age. Finally, while TETRA will be subject to less wear-and-tear than the donated vehicles, it is recommended that the MoIA provide a preventive maintenance plan to demonstrate that the system’s infrastructure and equipment will be inspected regularly where appropriate.

**Expand MoIA’s Ability to Leverage INL-Provided IT Resources:** Given what MoIA has been able to do in terms of leveraging the technology and training provided by INL to develop the National Crime Database (e.g., development of Police Pads), INL should consider expanding the technical support available to the Ministry to allow guidance for development of additional MoIA tools. Such assistance could be provided through a modest expansion of relevant contractor responsibilities, or alternatively, one-off trips to Georgia by qualified consultants. Such support would not only enable development of additional tools that would further strengthen and streamline the administration of law enforcement in Georgia, but would also continue to stretch the impact of this piece of the overall post-2008 U.S. assistance to Georgia.

#### **General Law-Enforcement Strengthening Activity Recommendations:**

**Suggested Performance Measure Modifications for ‘Commodity-Based’ INL Projects:** Developing new or modified performance measures and potential activities in future agreements with MoIA could give INL a more comprehensive yet nuanced picture of the effects of its commodity-based projects, which

include the TETRA Emergency Communications, Police Patrol Vehicles, and National Crime Database Projects. While budget cuts may limit future iterations of these activities involving large-scale purchases, these suggested performance measures could be utilized for small-scale upgrades, pilots of new phases of these projects, and for other modest expenditures on equipment that focus on a limited geographic area or target group. INL may want to consider the following measures:

*TETRA:* Once the TETRA system is operating on a national basis, INL may want to consider performance measures that explore the system’s effectiveness. For example, a future performance measure would request demonstration that the system has enabled improved response times by law enforcement or fire departments. Note that as with attempts to gauge improvements in response times due to the new patrol vehicles, such improvements based on utilization of TETRA may be more practically assessed through use of a survey and questions focusing on perceptions of the departments’ on-time performance.

*Patrol Vehicles:* Now that its vehicles have been in the field for just over one year, INL may want to recommend to MoIA that it consider commissioning a survey to qualitatively assess the degree to which the presence of these trucks is altering perceptions among target populations regarding police response time and feelings of safety. This would be intended to supplement – not replace – quantitative efforts to track current performance measures. These would include augmented patrol coverage of “sensitive” regions, demonstrably improved response times by law enforcement and documented reduction in incidence of criminal activity, which continue to be being carried out by MoIA authorities.

For example, individuals from local communities could be surveyed regarding perceptions of response times of police. Such a question was asked in the 2011 GORBI Crime and Security Survey commissioned by the Ministry of Justice – How quickly did the police arrive last time? In the 2011 survey, 88 percent of respondents stated that they had “arrived on time” versus 85 percent of respondents in the 2010 survey. Separately, to analyze perceptions regarding “augmented patrol coverage, the survey could ask how frequently participants see police vehicles each day or week, and to ask them to describe the vehicles if recalled.

*Database:* Now that the computers have been installed, INL will want to direct its attention toward how the database is being used and where it is being most effective. Some questions INL may want to add as performance measures in the future could include: How frequently is the database being used by cars/officers on foot, and which areas of the database are being accessed most (or least)? How many individuals wanted for a crime (either misdemeanor or felony) have been apprehended using the database in the field (e.g., while stopping a car for a routine traffic violation or recognizing a familiar face and matching it up with a database photo while on foot patrol)?

***Leverage Existing Qualitative Resources:*** In its consideration of leveraging existing resources to better understand the effects of its assistance, INL may want to more closely analyze instruments such as the aforementioned 2011 GORBI Crime and Security Survey. This is a robust, independently-funded and conducted study<sup>68</sup> that posed a series of questions about the performance of the Georgian police in carrying out their duties in all regions of the country, including Shida Kartli.<sup>69</sup> This study has also been

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<sup>68</sup> [http://www.justice.gov.ge/index.php?lang\\_id=ENG&sec\\_id=702](http://www.justice.gov.ge/index.php?lang_id=ENG&sec_id=702)

<sup>69</sup> These questions assessed overall perspectives on the Georgian police in controlling crime, how quickly the police arrived when called, frequency of the police presence, and the level of confidence in different Georgian law enforcement bodies.

standardized to make it comparable with the International Crime Victims Survey (ICVS). The ICVS is considered one of the premier programs of standardized surveys that examine the experience of households with common crimes in different countries, as well as with the Global Corruption Barometer. The raw data upon which the results of the ICVS survey are based are also publicly available. Specific GORBI Survey questions could be utilized as the basis for future INL performance measures. INL might also consider partnering on this or a related survey with GORBI in the future to obtain results even more tailored to its MoIA activities.

## ANNEX A: REVIEW OF INL-DOJ GEORGIA PROJECTS - INTERVIEWEES

January-February 2012

Last Name	First Name	Title	Organization
<b>EMBASSY</b>			
Kimball	Jared	RLA	DOJ
DeVillers	David	RLA	DOJ
Tsnoriashvili	Nata	Senior Staff Attorney	DOJ
Gardner	Olesia	Assistance Coordinator	POL/ECON Office
Turner	Mike	Police Advisor	INL
Cameron	Mark	Director, INL Programs	INL
Sauri	Gvantsa	Program Coordinator	INL
Nasaridze	Tamar	Program Coordinator	INL
<b>DOS/WASHINGTON</b>			
Stewart	Mary	COTR	Department of State
<b>DOJ/Washington</b>			
Newcombe	Catherine	Regional Director for Eurasia	DOJ
<b>MoIA</b>			
Kvinikhidze	Shalva	Head	MoIA Int'l. Relations Division
Peradze	Maka	Head, Project Coordination & Cooperation	MoIA Int'l. Relations Division
Gelashvili	Mikheil	Head of Project Management Team	Police Academy (MoIA)
Revishvili	Iva	Head	MoIA IT & Communications Division
Tepnadze	George	Deputy Head	MoIA IT & Communications Division
Jankarashvili	Giga	Head, Forensic Criminalistic Division	Patrol Police Department (MoIA)
Beridze	Giorgi	Quality Assurance Manager, Forensic Criminalistic Division	Patrol Police Department (MoIA)
Nadirashvili	Nodar	Head, Euro-Atlantic Integration Unit	MoIA Int'l. Relations Division
Kochishvili	Giorgi	Head, Investigative Division	Criminal Police
Tavadze	Lasha	Head	Special Operations Division
Tsiklauri	Irakli	Head	Police Academy Training
		Head, Transportation Office	Gori Special Operations, Main Office
		Logistics Officer	Gori Special Operations, Main

			Office
Four Investigators		Two Patrol Police, Two Criminal Investigation Police, Tbilisi	
<b>MINISTRY OF JUSTICE</b>			
Beruashvili	Nino	Director, Training Center	
Chomakhashvili	Ketevan	Head of Department of Supervision of Prosecutors	
Kakhidze	Otar	Head, Analytical Department	
Tenprosecutors		Ten from Tbilisi, four from Gori	
<b>LEGAL AID SERVICE</b>			
Kobidze	Irakli	Director	Legal Aid Service
Three Legal Aid lawyers		two from Tbilisi, one from Mskheta	Legal Aid Service
<b>JUDICIARY</b>			
Rukhadze	Shota	Deputy Director	High School of Justice
Two Judges			Tbilisi City Court
<b>NGOs-ASSOCIATIONS</b>			
Gigauri	Eka	Executive Director	Transparency Int'l Georgia
Khatiashvili	Zaza	Chairman	Georgia Bar Association
Baratashvili	Joseph	Head, Department of International Relations, Committee of Criminal Law	Georgia Bar Association
Kordzadze	Zviad	Executive Committee, CLE	Georgia Bar Association
Baramidze	Sandro	Defense Lawyer	Georgia Bar Association
Tabliashvili	Gia	Defense Lawyer	Georgia Bar Association
Kvachantiradze	David	Defense Lawyer	Georgia Bar Association
Turazashvili	Giorgi	Defense Lawyer	Georgia Bar Association
Chugoshvili	Tamar	Chairwoman	Georgia Young Lawyers Association
Wolfson	Ronald	Country Director	American Bar Association
Bowman	Herb	COP	USAID JILEP Project
Morgoshia	Ani	Head	Fair Trial
<b>DONORS</b>			
Khulordava	Tamar	Project Manager	European Union ROL and Good Governance